

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
REGULAR MEETING  
MAY 24, 2010  
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on May 24, 2010. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Chief Ortiz to lead the Pledge of Allegiance. Mayor Armstrong asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Olivo  
Councilor Holman

Councilor Williams  
Councilor Hood

Carol Virden, City Clerk/Treasurer informed Mayor Armstrong there was a quorum.

Also present:

Carol Virden, City Clerk/Treasurer  
Steve Dunigan, Planning & Zoning Director  
Cleatus Richards, Public Works Director  
Terri Mosley, Finance Director  
Jay Smith, Museum Director  
A.C. Ortiz, Chief of Police  
H. John Underwood, City Attorney

APPROVAL OF AGENDA

Mayor Armstrong stated next item on the agenda was approval of the agenda.

Mayor Armstrong entertained a motion to approve the agenda.

Councilor Williams moved to approve the agenda. Seconded by Councilor Olivo.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor Armstrong stated next item on the agenda was approval of the Consent Agenda.

Mayor Armstrong entertained a motion to approve the Consent Agenda.

Councilor Williams moved to approve the Consent Agenda. Seconded by Councilor Olivo.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

APPROVAL OF MINUTES OF REGULAR MEETING OF MAY 10, 2010.

Councilor Williams moved to approve the Minutes of Regular Meeting of May 10, 2010. Seconded by Councilor Olivo.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLES

Councilor Williams moved to approve Accounts Payables. Seconded by Councilor Olivo.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

APPROVAL OF MONTHLY REPORTS

Councilor Williams moved to approve Monthly Reports. Seconded by Councilor Olivo.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

APPROVAL OF COMMITTEE REPORTS

Councilor Williams moved to approve Committee Reports. Seconded by Councilor Olivo.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

UNFINISHED BUSINESS

Mayor Armstrong stated next item on the agenda was to Unfinished Business.

There was no Unfinished Business.

OTHER BUSINESS (items are for discussion only-no action will be taken)

Mayor Armstrong stated next item on the agenda was Other Business and no action would be taken. He asked Cleatus Richards, Public Works Director to give an update on City of Ruidoso Downs projects.

Cleatus Richards, Public Works Director said the ball fields have been prepared for tournament play and are ready for use. They have reseeded the playing field for All American Park. For Riverside Park they have placed railroad ties along the entry drive and parking lot areas to control access and they plan to seed that area in a week or two. The power drop for Riverside Park has now been installed and control panel installed. Service lines for street

lighting, sewer lift station and restrooms are being installed by city crews. He said vandalism continues to be a problem at All American Park. The bathrooms have been vandalized on two occasions within the last month and one area light and one ball field light have been broken. They file police reports on all of these incidents and damages have been about \$1,000 for each occasion and these are not budgeted items. Cleatus said they have been able to give them additional surveillance and hopefully that will curtail the vandalism. The Ruidoso River Restoration Committee will be meeting on May 26, 2010 and will again be requested to approve the Riverside Park development plan as qualifying for the city share of the \$1,000,000 required under the consent judgment. The meeting will be at 3:00 pm at village hall in Ruidoso. He said the parking lot on the east side of the ball fields by the Senior Center and entry was graveled by city crews with funds provided by Lodgers' Tax. Lodgers' Tax also provided funds for grass seed and bleachers.

Cleatus said under Streets work has been completed on West Dr. by FNF and has been inspected and approved by City staff and engineer from URS. The sidewalks have been repoured on Highway 70 by FNF. One curb inlet is yet to be installed but is in process. All punch list work must be completed by June 8, 2010. He said city crews are repairing potholes with cold mix. The street sweeper has been repaired and is now in use. The unit has water jets, which reduces dust caused by sweeping. They have also repaired the tractor mower and is now being used to mow weeds in street right-of-way. Trees have been removed on Hill Dr. by city crews and west shoulder extended with fill. PNM has agreed to relocate poles to allow widening of Hill Dr. and improve intersection with Turkey Canyon. City crews will complete project when poles are relocated.

Cleatus said under Water the annual Community Confidence Report for our water system has been completed and reviewed by the State EID and is now ready for distribution. The Water Department crews have inspected and made repairs to our water system in preparation for the annual water system inspection by EID, which is scheduled for May 20, 2010. A water leak allegedly from a meter at Avalon has resulted in a Tort Claim alleging damage to structures in the development. NM Self-Insured will handle this claim with assistance from John Underwood. City staff has provided information to our insurer regarding this incident.

Cleatus said under Sewer Dennis Engineering has completed preliminary sewer system plans for Agua Fria Subdivision. Funds are not available to start any part of the system and grant requests have been filed for special appropriations for the work. Cleatus said the E-ONE lift station for the Riverside Park is now being installed. Approximately 800 ft. of pressure line has been purchased and is being installed to connect the lift station to our system. City crews are doing all work for the project.

Cleatus said under FEMA Projects they did receive bids on March 31<sup>st</sup> for projects and they did substantially exceed the FEMA cost allowance. Bid information was provided to FEMA with request to increase cost allowance. After several weeks of review FEMA agreed to increase the Highland Land allowance but would not increase Friedenbloom or Joe Welch

Bridge allowances. We are required to front funds if we award Highland Lane, as FEMA funds are not now available. We are considering rebidding Friedenbloom and Joe Welch bridges. If cost exceeds FEMA allowance we will still be required to front required funds and appeal for increase.

Cleatus said under the RWWTP the final change order for Tatsch Construction-Phase 1A is now being processed. The final contract cost is \$6,8333,268.80 after deducting \$48,000.00 for liquidated damages. The original contract price was \$6,794,274.00 and the net increase is #38,994.80. The total changes by change order was \$86,994.80. He said RCMI is progressing well on Phase 1B toward completion by March 10, 2011. Heavy winds have caused minor delays. Cleatus said the Village of Ruidoso is attempting to set up the RWWTP operation as an enterprise fund and establishing a budget for fiscal year 2010-2011. Budget sessions with the City of Ruidoso Downs have been held but full accord has not yet been reached. The JUB approved preliminary budget on May 19, 2010.

Mayor Armstrong asked Cleatus to thank his crews for all of their hard work.

#### NEW BUSINESS

Mayor Armstrong stated next item on the agenda was New Business.

Mayor Armstrong said the next item was Consider Approving Lodgers' Tax Committee Recommendations of Allocations for 2010-2011.

Carol Virden, City Clerk/Treasurer said the Lodgers' Tax Committee did meet several time during the month of May and their last meeting was on May 18<sup>th</sup> to make the final recommendation for allocation of the Lodgers' Tax fund. The Lodgers' Tax Committee came up with a point system, which equals the ratio and percentage. For example, if an entity is assigned 3 points the ratio percentage would be 50% plus 20% plus 20% for a total of 90%. The members determined that each person coming to Ruidoso Downs from their event equals .31 cents each. A further example would be 3500 people at .31 cents would equal \$1,085.00 with a ratio of 90%, which would come out to \$976.50. Since then if council reviews the committee recommendations there is a change that they would like to see and that would be the Military Appreciation Weekend to \$5,000.00 and the Run to Ruidoso Downs from \$543.00 to \$1,000.00 and MTD Radio from \$250.00 to \$3,500.00. She said the total amount would be \$35,220.00 setting aside and carrying over \$7,000.00 for future and new events for the City of Ruidoso Downs.

Councilor Williams asked if this was the first year that they have used this point system?

Carol Virden, City Clerk/Treasurer said the Lodgers' Tax Committee will be coming up with some guidelines as well as using the point system for further allocations for further use.

Mayor Armstrong entertained a motion to approve Lodgers' Tax Committee recommendation of allocations for 2010-2011.

Councilor Williams moved to approve Lodgers' Tax Committee recommendation of allocations for 2010-2011. Seconded by Councilor Hood.

Councilor Holman asked Carol to give those figures again on that last item on MTD Radio.

Carol said it changed from \$250.00 to \$3,500.00. The reason for that is MTD Radio does a lot of advertising for Ruidoso Downs for its lodging industry, which is the motel/hotel and RV Parks.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving City of Ruidoso Downs Fiscal Year Budget for 2010-2011.

Mayor Armstrong entertained a motion to approve the City of Ruidoso Downs Fiscal Year Budget for 2010-2011.

Councilor Olivo moved to approve City of Ruidoso Downs Fiscal Year Budget for 2010-2011. Seconded by Councilor Williams.

Terri Mosley, Finance Director said she would like to point out that this budget includes all of the changes that were discussed in the May 17<sup>th</sup> Workshop. There was one change that wasn't made on page 33. She said she neglected to change the \$7,000.00 expenditure on the Litter Control to \$6,500.00. She said she also had not made the changes to the Lodgers' Tax that they had just approved. Terri said whatever hasn't been spent in this current year when she closes on June 30<sup>th</sup> will be carried over and the same goes for projects that haven't been started but were budgeted for last year.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Resolution No. 2010-08 Fire Restrictions.

Mayor Armstrong said they were staying with the fire restrictions that the county has recommended that they will implement when the time comes and they are only good for a few days and then they look at the issue again.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-08 Fire Restrictions.

Councilor Olivo moved to approve Resolution No. 2010-08 Fire Restrictions. Seconded by Councilor Hood.

Councilor Williams asked on the third 'Whereas' in the next to the last sentence if it would be possible to change "Emergency action" to "Immediate action" since we are not really in an emergency situation in approving this.

Mayor Armstrong said they don't ever want to talk about an emergency situation.

Councilor Williams asked if that was an okay?

Mayor Armstrong said yes.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Bias Based Profiling Policy General Order No. 2010-01.

H. John Underwood said in 2009 the New Mexico State Legislator adopted law which was put into statute and codified as 29-21 1 through 4 which relates to prohibition and profiling practices. That law became effective June 19, 2009 and required that profiling practices be prohibited and that policy and procedures be put in place by December 2009. We didn't have something like that in effect and the Chief has cooperated in working toward adoption of a Profiling procedure. This procedure complies with the state requirements of the statute. He said he would ask that this be adopted by the City of Ruidoso Downs and that it be part of the Standard Operating Practices and Procedures of the Ruidoso Downs Police Department.

Councilor Holman asked if this was a state requirement?

H. John Underwood said yes.

Councilor Holman asked if there was a deadline on this?

H. John Underwood said the law became effective in December 2009.

Mayor Armstrong entertained a motion to approve Bias Based Profiling Policy General Order No. 2010-01.

Councilor Hood moved to approve Bias Based Profiling Policy General Order No. 2010-01. Seconded by Councilor Olivo.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Amended Memorandum of Understanding Between the village of Ruidoso and the City of Ruidoso Downs as the Administrative Authority for the Ruidoso Downs Police Department for DWI Enforcement Activities and Reimbursement of Costs.

Chief Ortiz said they brought back this item from May 10<sup>th</sup>. This is an amended section that includes some verbiage that was changed and adding an additional \$2,000.00 to the \$4,000.00 grant that was approved by the DWI Program. It brings it to a total of \$6,000.00 and this is giving us until June 15<sup>th</sup> to spend that money. Another change to this amendment was to make the funds payable to the City of Ruidoso Downs in care of the City Clerk and to use PO Box 348, Ruidoso Downs.

H. John Underwood asked if that amendment would be to paragraph 7 to change the notice to the City Clerk at the PO Box of the City and then also in paragraph 3 they changed the numerical to \$6,000.00 but they didn't change their other to \$6,000.00 so it should say not to exceed six thousand.

Councilor Williams said they originally approved the MOU back in July 2009 with the exact wording of the same here with the exception of the amount and the time, date, and where it would actually end up. Wouldn't it be easier to keep this in respect and just make the changes to the original one that was passed last year?

H. John Underwood said it was his understanding that this was an amendment.

Carol Virden, City Clerk/Treasurer said the MOU that was approved by council on May 10<sup>th</sup> was for fiscal year July 1, 2010 until June 30, 2011. The amendment has to reflect the \$6,000.00.

Councilor Williams said he also noticed that on the 'therefore' it runs from July 1, 2009 to May 15, 2010 the one they passed last year was from July 1, 2009 through June 30, 2010. So that would be another amendment that would be added that wasn't mentioned.

H. John Underwood said that was a good point and so he was say the language should say June 30<sup>th</sup> instead of May 15<sup>th</sup>.

Councilor Williams said that was correct.

H. John Underwood said that would be appropriate since they were already past May 15<sup>th</sup>.

Mayor Armstrong entertained a motion to approve amended Memorandum of Understanding between the Village of Ruidoso and the City of Ruidoso Downs as the administrative authority

for the Ruidoso Downs Police Department for DWI Enforcement activities and reimbursement of costs with changes as discussed.

Councilor Williams moved to approve amended Memorandum of Understanding between the Village of Ruidoso and the City of Ruidoso Downs as the administrative authority for the Ruidoso Downs Police Department for DWI Enforcement activities and reimbursement of costs with changes as discussed. Seconded by Councilor Hood.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Wastewater Treatment Plant Operating Invoice for April 2010.

Terri Mosley, Finance Director said she verified this invoice and there was a typing error that they corrected but the totals all seem to be correct.

Mayor Armstrong entertained a motion to approve Wastewater Treatment Plant Operating Invoice for April 2010.

Councilor Williams moved to approve Wastewater Treatment Plant Operating Invoice for April 2010. Seconded by Councilor Olivo.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Personnel Recommendation-Hubbard Museum of the American West-Position-Part Time VSR.

Jay Smith, Museum Director said they are recommending that the City hire Sandra Mae Harris as the part-time VSR. He said this is not a new position. They have two open VSR positions. They are not looking to hire both positions but just one at this time until they have a chance to assess the summer tourist traffic. Jay said it should be noted that this candidate be hired provided they pass the mandatory physical and drug test which could not be arranged until Wednesday.

Mayor Armstrong entertained a motion to approve Personnel Recommendation-Hubbard Museum of the American West-Position-Part Time VSR.

Councilor Hood moved to approve Personnel Recommendation-Hubbard Museum of the American West-Position-Part Time VSR. Seconded by Councilor Williams.

Councilor Hood asked how long it has been since this position has been filled?

Jay Smith, Museum Director said in this particular case since November but the second position that has not yet been filled was vacated last May.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

#### PUBLIC INPUT

**(All concerns to be addressed only to the Governing Body as a Whole with a 3-minute Time Limit)**

Mayor Armstrong stated next item on the agenda was Public Input.

Jim Kofakis said he works at the museum. He said he wasn't sure if he could speak on agenda items. He said he would like to ask a question about Lodgers' Tax. Under MTD Radio he said he would assume that is to pay for the advertising for the lodgers. As an efficiency the should take a strong look at running it through the museum because he buys all of the advertising for the museum and his rate is half of what the City is paying through Lodgers' Tax. If you are looking to save money you should really look at that. Jim said he would also like to address the next item on Lodgers' Tax to the City attorney. He said he thought the intent of Lodgers' Tax was to spend it to promote tourism and he said he found it hard to believe that to spend it on gravel, grass seed, and grandstands falls within the intent of that law and that they should be real careful of that.

Mayor Armstrong said that if he would come into the office tomorrow they would explain that.

Wayne Williams said he would like to compliment the City and the Police Department on one of their officers. He said he had the pleasure of sitting down with Officer Trujillo and they had a long conversation. He said he was very impressed with this young officer. He said Officer Trujillo told him he was being called to go back to Afghanistan. Young men like this are hard to come by. Wayne said he would like to recommend to the City to make every effort to hold his job for him for when he comes back and if possible even to supplement his Army pay to his family while he's gone. He said he was really impressed with this young man and wanted them to know that.

Johnny Van Winkle said he came here to support the Police Chief. He said he has a very tough job and he thinks the politics phase plays a terrible part in what he has to do. He said he wants the council to do the right thing and support your Police Chief. He said he really supports the Museum of the Horse and is an event that goes on year round and not just one time so they should also support the museum.

Sharon Paul said she was also here to support the Police Chief. He does an excellent job. She said she knew they were going to discuss the terms of the six-month probation he is going to be on and she said racial profiling has never occurred so she hoped he would stick with us through this.

Judy Van Winkle said she regretted missing the last Council meeting and was not there to support Chief Ortiz. She said she wanted to put her full support behind him. She said she also regretted that council felt they had to put him on probation. He's doing an excellent job and they should let him do his job.

There was a round of applause.

Jay Smith, Museum Director said he would like to thank Terri Mosley, Finance Director for explaining the process for maintaining Capital projects and that explanation includes the museum storage building in the budget for next year. That is an incredibly important project for the museum and for the City of Ruidoso Downs. He said it seems clear that it will be completed after his tenure he would like to reiterate how important that is to the future of the museum. Jay said he would be remiss if he did not say that he was profoundly disappointed that the budget had to make a 50% cut in the distribution from the General Fund for the museum. He said the museum was a tremendous asset for the City of Ruidoso Downs and would continue to be so for many years.

Bonnie Richardson said she has seen more pets in her front yard in the past two months than she has in the past four years. She said when they make a decision they really need to think are they saving pennies or are you costing dollars. She said she feels that way about the museum too.

Diane Flores said she was here again in support of Chief Ortiz and that after reading the comments about Chief Ortiz following the last Council meeting she felt very proud to be a part of Ruidoso Downs for the first time in a long time. She said she didn't know why they put him on probation because they should just let him do his job. She said in their Closed Session she hoped they were not once again trying to find a way to get rid of him. She said he is an excellent Police Chief and they feel the community is safe and they need to hold on to him.

Elke Cooper said she was here again to speak for the Police Department and also the Fire Department who saved her neighborhood Sunday evening. There were so many things going around and when people come up with a new word in the English language such as racial profiling some people get going so much using it that she didn't believe it happens here. If somebody has a beef with an officer it's because they are angry they got stopped. They shouldn't blame the Chief for it. This man came here and is a professional for over thirty-five years and to accuse him of racial profiling or anything in that color she found offensive. She said she wished they would stop all this nonsense about probation and let the man do his job.

CLOSED SESSION

Mayor Armstrong stated next item on the agenda was Limited Personnel Matters § 10-15-1 H2 NMSA 1978 for discussion of Chief of Police in Terms of Probation.

Mayor Armstrong entertained a motion to go into Closed Session for Limited Personnel Matters § 10-15-1 H2 NMSA 1978 for discussion of Chief of Police in Terms of Probation.

Councilor Hood moved to go into Closed Session for Limited Personnel Matters § 10-15-1 H2 NMSA 1978 for discussion of Chief of Police in Terms of Probation. Seconded by Councilor Williams.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

Mayor Armstrong closed the regular meeting at 6:16 p.m. and invited H. John Underwood, City Attorney, Carol Virden, City Clerk/Treasurer, and Chief Ortiz and called for a five-minute recess.

Mayor Armstrong entertained a motion to go back into Open Session.

Councilor Hood moved to go back into Open Session. Seconded by Councilor Williams.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, Aye. Motion carried.

Mayor Armstrong called the regular meeting back to order at 7:10 p.m. and asked that a member of the City Council attest to the fact that the only items discussed in Closed Session were that of Limited Personnel Matters § 10-15-1 H2 NMSA 1978 for discussion of Chief of Police in Terms of Probation.

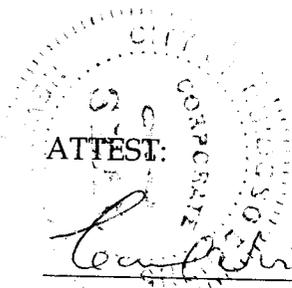
Councilor Williams attested to the fact that the only items discussed in Closed Session were that of Limited Personnel Matters § 10-15-1 H2 NMSA 1978 for discussion of Chief of Police in Terms of Probation and no action was taken.

ADJOURNMENT

They're being no further business to attend to Mayor Armstrong entertained a motion to adjourn.

Councilor Hood moved to adjourn at 7:11 p.m. Seconded by Councilor Holman.

All were in favor and motion passed.



*Carol Virden*

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Carol Virden, City Clerk/Treasurer

*Tom E. Armstrong*  
Tom E. Armstrong, Mayor