

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
REGULAR MEETING  
JUNE 14, 2010  
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on June 14, 2010. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Bonnie Richardson 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  
Zach Cook, 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 Olivo moved to approve the agenda. Seconded by Councilor Williams.

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

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

APPROVAL OF MINUTES OF BUDGET WORK SESSION OF MAY 17, 2010.

Councilor Hood moved to approve the Minutes of Budget Work Session of May 17, 2010. Seconded by Councilor Williams

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 24, 2010.

Councilor Hood moved to approve the Minutes of Regular Meeting of May 24, 2010. Seconded by Councilor Williams.

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

APPROVAL OF ACCOUNTS PAYABLES

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

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 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.

Mayor Armstrong asked Carol Virden, City Clerk/Treasurer to speak on the CDBG Grant.

Carol Virden, City Clerk/Treasurer said Mayor Armstrong signed the 2010 CDBG Grant and it was sent for the total amount of \$472,898 for street and drainage improvements on North Central and River Lane. She said they will get started on that with the bid process and putting RFP's out for contractors.

Councilor Olivo said he would like to thank the Parks & Recreation guys because they did a beautiful job Saturday. He said they had ten teams of girl's fast pitch softball. They were from Rio Rancho, Midland, Amarillo, Alamogordo and they had a big turnout even though it was 95 degrees. He said he also wanted to thank the Fire Department because they were there

around three times to make sure the girl's were okay in the heat. The teams want to come back next September again.

Mayor Armstrong asked Cleatus Richards, Public Works Director to be sure to pass that on to the crews.

#### NEW BUSINESS

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

Mayor Armstrong stated next item on the agenda was Consider Approving Agreement for Inmate Confinement Between the City of Ruidoso Downs and the County of Lincoln.

Chief Ortiz said this agreement has always been a verbal agreement and nothing in writing. This agreement will allow the City of Ruidoso Downs to have something in writing that we can fall back on as far as the firms that are outlined by the Lincoln County Detention Center and Lincoln County. As far as cost the extended cost factor is for every inmate that we have to send out there for housing. These are inmates are inmates housed through the Municipal Court findings, not through the State but through the Municipal Court. This agreement will outline those conditions. He said he believed they had agreed to a \$72.00 per day inmate fee.

Councilor Hood asked what the criteria was?

Chief Ortiz said we could only hold a prisoner in our facility for 72 hours. They try to get them out before the 72 hours for liability reasons. He said they aren't really set up to house them for longer than that.

Councilor Williams said one of the stipulations on page 2 number 4 states that the LCDC Director shall have the right to refuse the housing of any of our inmates. What would be one of the instances where that would happen he asked?

Chief Ortiz said if they had a full house of inmates and it would exceed the limit of holding them in their facility usually the more serious offenders would take precedence over the minor offender.

Councilor Williams asked if it was full over there and if was full here and there was another inmate or two come in do we have any other prospects to hold them in detention?

Chief Ortiz said the Village has a smaller facility than we do. The alternative would be that we would probably have to go to the next county and try for assistance there.

Councilor Williams asked what the cost to the City would be for transporting?

Chief Ortiz said in the agreement LCDC would come out and transport the inmate. That cost is factored into the housing. From time to time however if they don't have the staff available to transport we would them and at that time we would utilize our officer to do that.

Councilor Williams asked if that would be an on-duty officer or would we have to call in an officer?

Chief Ortiz said normally we would use an on-duty officer or call one in if needed.

Councilor Holman said he noticed on the transportation that the City shall be responsible for all transportation. He said we don't have the transport vehicle besides the Crime Scene vehicle.

Chief Ortiz said they would use that vehicle. He said normally they would have to transport an inmate over here for court but for the most part LCDC would transport the inmate to the detention facility.

Mayor Armstrong entertained a motion to approve Agreement for Inmate Confinement Between the City of Ruidoso Downs and the County of Lincoln.

Councilor Hood moved to approve Agreement for Inmate Confinement Between the City of Ruidoso Downs and the County of Lincoln. Seconded by Councilor Williams.

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 Awarding contract of Highland Lane-FEMA Project.

Cleatus Richards, Public Works Director said on April 13<sup>th</sup> they opened bids on the FEMA projects for Friedenbloom, Highland Lane, and Joe Welch bridges. All three of the bids received exceeded the allowance that FEMA set for those projects. He said he filed an appeal with FEMA to increase their allowances. After considerable deliberation they did increase the allowance for Highland Lane only but would not increase the allowances for the two others. Cleatus said they are now in the process of advertising the other two projects. They committed that they would provide funding up to the amount of the bid for the Highland Lane project. The deliberation took longer than the 45 days for awarding the bid. FNF, the bidder for the project did sign an agreement that they would allow the extension of time for award and a copy of their letter was included in the councilor's package. Also included was a copy of an email from Bill Ewing from the State Emergency Management confirming that the increase and what's allowed for the Highland Lane but would not be allowed for the other projects. The increase in funds is available for the state's portion but FEMA will have to request an additional appropriation to cover their portion. The increase over the original allowance is \$23,381.26. We will need to initially front that amount to be able to work the project but we will get reimbursed by the state and federal government for the majority of that amount. The federal amount of that increase is \$17,535.81 and the state share of

that amount is \$4,208.59. He said he was asking council to act to award the bid to FNF Construction for the Highland Lane project.

Mayor Armstrong entertained a motion to approve Awarding Contract to FNF Construction for the Highland Lane-FEMA project

Councilor Olivo moved to approve Awarding Contract to FNF Construction for the Highland Lane-FEMA Project. 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 Special Dispenser Permit Application-Event Modrall Sperling Reception-July 16, 2010-HMAW.

Jay Smith, Museum Director said they have held their event at the museum before. They apparently visit the Ruidoso area every couple of years for a retreat and wanted to come back to the museum but wanted alcohol service. The way to do that is through the track so that is why this was being brought to them for their approval.

Mayor Armstrong entertained a motion to approve Special Dispenser Permit Application-Event Modrall Sperling Reception-July 16, 2010-HMAW.

Councilor Hood moved to approve Special Dispenser Permit Application-Event Modrall Sperling Reception-July 16, 2010 HMAW. 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 Recommendations-Positions-Part-Time/On Call Drivers-Lincoln County Transit.

Mayor Armstrong entertained a motion to approve Personnel Recommendations-Positions-Part-Time/On Call Drivers-Lincoln County Transit.

Councilor Hood moved to approve Personnel Recommendations-Positions-part-Time/On Call Drivers-Lincoln County Transit. Seconded by Councilor Olivo.

Councilor Holman asked if they knew where we were on the funding of the transit?

Mayor Armstrong said no, not at this moment but there was a lot of discussion out there.

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-Position-Office Manager-Public Works Department.

Mayor Armstrong entertained a motion to approve Personnel Recommendation-Position-Office Manager-Public Works Department.

Councilor Williams moved to approve Personnel Recommendation-Position-Office Manager-Public Works Department. Seconded by Councilor Hood.

Councilor Williams said his question was on the selection committee during the process of the oral evaluation he noticed there were two Public Works personnel on the committee. He said as stated in the Personnel Policy Manual it is usually the department head and the other mayor's members, the delegated official and the personnel person. He said he wanted to inquire why they had two members from Public Works evaluating?

Mayor Armstrong said he didn't have a reason for that other than the questions probably went into . . .

Mayor Armstrong asked Carol to speak.

Carol Virden, City Clerk/Treasurer said the reason there were two employees from the Public Works Department is that the Public Works Director and the Project Manager will work very closely with the person that is being recommended for employment.

Councilor Williams said the fact that you have worked with the individual in the past, isn't that a little bit of a bias opinion that you may have of that person during the process of evaluation if you've had this previous association over some of the other candidates that came and didn't have that luxury of being recognized as someone that's been worked with or having dealings with in the past? Isn't that kind of a disadvantage for the other individuals in that interview process?

Carol Virden, City Clerk/Treasurer said regardless of who the recommendation would be both the Public Works Director and the Project Manager would work closely with whoever would have been chosen for the position.

Cleatus Richards, Public Works Director said in the process of the evaluation he reviewed all of the applications and he reduced thirteen down to three that he felt qualified. All applicants were asked the same identical questions and all of which were based entirely on the job description. The applicant chosen had more than adequate experience in all of the area. None of the other applicants had that degree of experience. The most qualified person was selected and is being recommended for the position.

Councilor Williams said that sounds like a company line.

Cleatus Richards said it's a factual line.

Councilor Williams said he has been an advocate of having a council member or possibly a member of the public as a neutral observer during this process. He said he didn't think the process has been considered in that reference even though it states minimal of who can be on this committee. A neutral observer doesn't say that you're not doing it right. It's just someone for me to be familiar with the process of how it's done and the questions that are asked and get a feel of being in an interview environment with people looking for a job and that we are making recommendations according to us. He said he didn't think other departments have had the luxury like the museum and transit of having more than one person on the committee.

Mayor Armstrong said that was not true. The Police Department always has two and maybe three people in the hiring of their people.

Carol Virden, City Clerk/Treasurer said and as well Mr. Smith. They just went through that process last week.

Councilor Williams said one more thing. He said he was reading Senate Bill 207 and it's substitute for Senate Public Affairs Senate Bill 207 "Double Dipping" bill, which says, come July 1<sup>st</sup> you can't have both, you can't have salary and benefits in combination.

Carol Virden, City Clerk/Treasurer said that's correct.

Councilor Williams said he just thought that the process of hiring a secretary, and they had that discussion earlier, over at Public Safety, is disconcerting to him but he said he was hopeful this double dipping bill wasn't a consideration. Obviously they wouldn't admit to it of course but he wanted to make note of it that two weeks before this bill is enacted and he was hopeful as they said that the best candidate was selected. He is over qualified but said he had no complaints about being over qualified if it benefits the City.

Mayor Armstrong said that is what they are looking for is the best candidate for the City. This is a very highly trained person that has applied for this position and is not of a retiring age and is more than welcome. Mayor Armstrong said he would do what he can to make sure the City gets its money's worth.

Councilor Holman said he would like to point out that as far as the advantage of having a person back can also work against a person. He said he knows places where they don't want them back. He said it could be an advantage or disadvantage in today's world. He said the only he would want to be sure of going in this direction is that he has encouraged few personnel and cutting back on as much as they can. He said he's been going that route for two years so he hoped they definitely need this position. If they hire a person and if they ever get to the point though maybe they could use him in other areas. He said he didn't see some of the things that were brought out as valid, maybe some of them are but he didn't know. He

said just because a person has been somewhere that it is to be an advantage or disadvantage. Hopefully that person would be looked upon favorably.

Councilor Hood asked if there was any consideration to putting a freeze on hiring since we are not being held harmless for the gross receipts tax that our budget was being handled. He said at one time they had a freeze on hiring.

Mayor Armstrong said these are not new positions. These are positions that were already budgeted for.

Councilor Williams asked how many are home grown out of the thirteen?

Carol Virden, City Clerk/Treasurer said she didn't have that answer.

Councilor Holman said these were things that concerned him too. He said as far as the hiring committee and the selection of a person he wouldn't want to be the person explaining to somebody if that individual scored the highest with the criteria that is used to select an employee, he wouldn't want to be the person explaining that yes, that person was the most qualified with the most experience and then tell him we didn't hire him. We decided to hire someone who didn't score very well and didn't have very much experience. He said they probably didn't want to get into that either.

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

Mayor Armstrong asked Cleatus to have him here at the next meeting so everyone could meet him.

Carol Virden, City Clerk/Treasurer said we have several new employees that need to be introduced to the governing body and other new employees will be here as well from the Police Department, Public Works, and Museum.

#### 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.

Joyce Gustafson said she represents the Citizens Committee of Ruidoso Downs. She said they bring before them tonight a list of suggestions from their last meeting of June 12<sup>th</sup> that they want the city government to address in the near future. We would appreciate your response to these concerns in writing and mailed to: CCORD in care of Bobby Gustafson Box 418 Ruidoso Downs. She said we need your response within the next two weeks on Items 1 & 2. We need your response by August 27, 2010 on Items 3, 4 & 5 and all in writing please.

Joyce Gustafson said #1: Riverside Park needs trash cans installed immediately and a scheduled pick up of trash put on City park employees. Signs that say, "No Camping allowed" need to be installed in park. Police need to patrol more often especially at night. Mayor Armstrong said the City didn't have money for new gate to entrance at Riverside Park. We want the old metal gate that the City removed when starting this new project returned and reinstalled at the entrance. On duty police officer shut gate and put padlock on at 9:00 p.m.

Joyce Gustafson said #2: Steve Dunigan and Code Enforcement Department need to start enforcing our City ordinances. The dumping of brush and debris behind the third home (308 N. Parnell) on left as you turn off of North Central onto North Parnell is a code violation and needs immediate attention. Mr. Dunigan, Mr. Morales, and Mayor Armstrong have all been notified over the last several months by Phil and Linda Wright This type dumping will cause serious problems in the city-designated ditch right-of-way and properties below this dump site when major rains occur. Governing body as a whole fix this problem and other codes violations starting now. We also will be talking to Judge Mansell concerning his court and the punishment phase on violators on the City's Codes of Ordinances.

Joyce Gustafson said #3: Residents living on Wood Lane were told over five years ago that their street was fixing to be curb, guttered, and paved. They want answers as to when that will happen. They were also told that the State of New Mexico had made Wood Lane a bypass off Highway 70 if for some reason 70 had to be closed. If this is correct would the state and county be responsible for some of the cost to pave Wood Lane

Joyce Gustafson said #4: We are requesting that the City of Ruidoso Downs not renew contract this fall with State of New Mexico for Lincoln County Transit if Lincoln County and Village of Ruidoso fail to meet their total share of funding for upcoming fiscal year.

Joyce Gustafson said #5: Rewrite contract on Senior Center between Lincoln County and City of Ruidoso Downs immediately. Either the County pays our City and its residents enough rent so we can afford to build another building for our communities use or rewrite so residents are allowed to use this building in All American Park with acceptable fees set by our governing body with input from Ruidoso Downs residents as to what those fees will be according to use of building.

Joyce Gustafson said the Citizens Committee of Ruidoso Downs at this time wished to thank you for addressing some of our past concerns. We realize and do not expect every concern to be addressed immediately. Hopefully, our concerns are still on your list to be addressed in the near future as this is our city and our goal as a committee is to make it a better place to live for everyone.

Pam Williams said this has bothered her for over ten years and she has tried to get this addressed numerous times. She thanked Terri for help in getting her all the information she asked for and Carol too. She said she understands that it is not a requirement of the State that

a City have a financial statement that a CPA is required only to audit the City's finances. A Balance Sheet together with an Income Statement and Cash Flow Statement makeup the cornerstone of any city's financial position. A Balance Sheet is a snapshot of our City's financial condition listing our assets equaling our liabilities and equity. She said she felt they need the expertise investing in an accounting firm in preparing our City's financial statement. Without these procedures it produces a significant deficiency in our internal control. Not only does she believe it is necessary for our City to have financial statements but also that our governing body be able to read and analyze them. We pay consultants to do everything else. Why not something so important? She said our accounting system is not complete.

#### CLOSED SESSION

Mayor Armstrong stated next item on the agenda was Discussion of Threatening and/or Litigation pursuant to § 10-15-1 H7 NMSA 1978.

Mayor Armstrong entertained a motion to go into Closed Session for Discussion of Threatening and/or Litigation pursuant to § 10-15-1 H7 NMSA 1978.

Councilor Hood moved to go into Closed Session for Discussion of Threatening and/or Litigation pursuant § 10-15-1 H7 NMSA 1978. 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 5:58 p.m. and invited Zach Cook, City Attorney, Carol Virden, City Clerk/Treasurer, Cleatus Richards, Public Works Director and Steve Dunigan, Planning & Zoning Director 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 6:07 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 Discussion of Threatening and/or Litigation pursuant § 10-15-1 H7 NMSA 1978 and no action was taken.

Councilor Hood attested to the fact that the only items discussed in Closed Session were that of Discussion of Threatening and/or Litigation pursuant § 10-15-1 H7 NMSA 1978 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 6:08 p.m. Seconded by Councilor Williams.

All were in favor and motion passed.



ATTEST:

  
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Carol Virden, City Clerk/Treasurer

  
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Tom E. Armstrong, Mayor