

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
JUNE 28, 2010
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on June 28, 2010. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Steve Dunigan 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
John Underwood, City Attorney

APPROVAL OF AGENDA

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

Mayor Armstrong said there was a correction on Item 12A and said it would be the first and not second. It would be the First Renewal Contract for Professional Legal Services-Between the City of Ruidoso Downs and H. John Underwood, LTD. He said he was also going to pull Item 12F because more review is needed for that.

Mayor Armstrong entertained a motion to approve the agenda with those changes.

Councilor Olivo moved to approve the agenda with the changes. Seconded by Councilor Hood.

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 but said he had a question. He said he noticed in the invoices that part of our fire station was in the process of architects doing the development and the proposal-taking place. He asked if that station is going to be located where they had first planned it, across from the track? Cleatus Richards, Public Works Director said yes. Councilor Williams said he had another question on the Nevada Lane improvements on Phase III. Cleatus said that is covered with the first phase of that project and that will be the first phase of that project.

Councilor Olivo seconded the motion.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF JUNE 14, 2010.

Councilor Williams moved to approve the Minutes of Regular Meeting of June 14, 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.

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 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 Introduction of Newly Hired Employees.

Chief Ortiz introduced the new secretary for the department Connie Hernandez. She comes to them from the El Paso Police Department from which she retired after 24 years. He said they are very pleased to have her.

Steve Dunigan introduced Donna Miller. He said she's been with us since March 23rd and she is a positive influence for our customers. She has knowledge as an office manager and business owner and is a tremendous asset to us.

Cleatus Richards, Public Works Director introduced Ken Mosley and said he is the office manager and his background has already doing good things for us.

Mayor Armstrong stated next item on the agenda was an Update on FEMA Projects-FNF Construction.

Cleatus Richards, Public Works Director said they have signed the contract agreement for the Highlands Lane paving project and have issued a notice to proceed today for that project. They should be starting the work for that project on Wednesday or Thursday of this week and FNF Construction will be doing that work. They are rebidding the Freidenbloom and Joe Welch bridges and that will be on July 6th.

Councilor Olivo said the kids from El Paso are coming here to play in the Little League World Series on July 11th and they will be starting the games at 7:00 in the morning until midnight. This will be boys 14 years and under. He said we should show our support. They will be playing July 7th through July 11th.

Mayor Armstrong stated next item on the agenda was Discussion of Creating a Task Force for Lincoln County Transit.

Carol Virden, City Clerk/Treasurer said at the Special Meeting of the Lincoln County Commissioners it was a suggestion by the commissioner/chair Mr. Battin and also with agreement with Commissioner Sedillo to form a committee made up of the three entities that commit funds to Lincoln County Transit for further study on ridership. She said she informed the commissioners that she would bring that up to the council meeting for discussion. She said she thought they would need a written request from the Lincoln County Transit manger in order to take further steps on the data.

There was no discussion.

NEW BUSINESS

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

Mayor Armstrong stated next item on the agenda was Consider Approving the First Renewal Contract for Professional Legal Services-Between the City of Ruidoso Downs and H. John Underwood, LTD.

Mayor Armstrong entertained a motion for the approval of the First Renewal Contract for Professional Legal Services-Between the City of Ruidoso Downs and H. John Underwood, LTD.

Councilor Olivo moved to approve First Renewal Contract for Professional Legal Services-Between the City of Ruidoso Downs and H. John Underwood, LTD. Seconded by Councilor Holman.

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 Assignments Between the City of Ruidoso Downs and H. John Underwood, LTD.

H. John Underwood, City Attorney said he's been contacted by various groups to make presentations regarding the Economic Development ordinances passed by the legislature that this body authorized him to lobby for at the last session. That issue is now going to be coming up either through a Special Election or a General Election that is yet to be determined. In doing that there has been discussion in the past by this body regarding the importance of the racetrack to the economic well being of this community and the people located in this community. He said he has been asked to participate in public information forums. He said he was asking that the City of Ruidoso Downs as provided under his legal services agreement that it allows him to provide special assignments. Paragraph B of that agreement says "legal services will be provided as requested by the governing body for matters not included in routine legal services." He said he didn't think that speaking in public forums on behalf of the passage of that ordinance and opposing that ordinance would be something that would be considered routine legal services. He said it's not anything that will take away from his current duties as city attorney. For the first year of his and Zach and Margie and Deanne association has been a great experience for them. He said on this issue it affects the City of Ruidoso Downs on what ends up happening to the track and whether they are moving or not moving. He said he has been asked to participate and make various appearances and to do various legal work and as it would benefit the City of Ruidoso Downs he asked that it be made a special assignment.

Ann McGovern said she was the General Manager of the Ruidoso Downs Racetrack and she would like to reiterate what John said in that it is important to have a voice for Ruidoso Downs in the discussion. John's knowledge will be beneficial and he will represent the community well.

Councilor Holman asked if the special assignment fees would be separate from the other legal fees?

H. John Underwood said the hours would be included in the same amount of hours he puts in elsewhere in the same contract and his hours are charged at \$75.00 per hour. He would charge extra for that.

Councilor Holman asked if he would spell out what he would be lobbying for.

H. John Underwood said it would be for House Bill 203. It's about what the county decides to do or not do in regards to adopting an ordinance to do through a special election or having a general election. It's about being in favor of the passage of an ordinance that results from House Bill 203 which the Economic Development Act proposes for Lincoln County proposes to have a gross receipts tax election by the citizens of Lincoln County on the issue of whether to supplement the taxes due from the casino.

Mayor Armstrong entertained a motion to approve Special Assignments Between the City of Ruidoso Downs and H. John Underwood, LTD.

Councilor Olivo moved to approve Special Assignments Between the City of Ruidoso Downs and H. John Underwood, LTD. Seconded by Councilor Williams.

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

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

Mayor Armstrong said he would break the tie with a vote for the approval.

Carol Virden, City Clerk/Treasurer said motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Planning & Zoning Commission Case No. 2010-03 Recommendation of Request for Conditional Use Mixed Use Planning Unit Development (M-PUD) of Lots 7, 8, and 9 of Block 5 Valley View Subdivision For The Development of an RV Park With The Condition That A Stop Sign Be Placed At The Entrance/Exit.

Paul van Gulick, Chairman of the Planning & Zoning Commission said they all should have a copy of the Agenda Briefing Memorandum as well as the site plan for this proposed project.

The P & Z Commission voted unanimously to recommend approval of this request and consideration for the needed requirements for the M-PUD Mixed Planned Unit Development. The site development plan that was presented to them is specifically what is being recommended for approval with the addition of the stop sign at the entrance and exit. This avoids the difficulty of changing the zoning and thereby bringing in other kinds of uses that would not be good for that site. It would allow them to come in with a motel and some RV sites with reasonable low density. It is in compliance with Comprehensive Master Plan. The purchaser has already done a lot for improvement of the property. This proposal meets all of the setbacks.

Councilor Olivo said there is a school bus stop there and there is a place where the parents would park. He said he noticed there was a "No Trespassing" sign and that is one of the major stops.

Paul van Gulick said the sign might be due to the transitional period and asked Mr. Ford to come up and answer that.

Alan Morel said he along with Eric Collins were here to represent Mr. Ford's application. Eric Collins said Mr. Ford came to him several months ago when he wanted to start work on this RV and motel space. They knew they had some hurdles and one of them was the zone change which was the RV space not considered one of the permitted uses within the area. In looking through the Comprehensive Plan and the codes they felt they came up with a very good project. Alan Morel said there will be an on site owner and supervision and the fencing will help a great deal. This will generate some gross receipts tax and lodgers' tax.

Councilor Hood said he would like to applaud him for cleaning up the property because it has been run down for a long time.

Councilor Williams said they could look at the P & Z minutes for some of the use of this and they anticipate the summer use for the majority of the time but could be used year round.

Alan Morel said at some point his client intends to retire and they probably will be here and make this their home.

Councilor Williams asked if there was going to be a sign somewhere near Highway 70 to advertise?

Alan Morel said right now it is by word of mouth and hopefully that is in his advertising budget.

Steve Dunigan, Planning & Zoning Director said about 5:10 p.m. he did receive a hand-delivered letter in opposition of this. He said it was one out of eleven and it was a late delivery.

Chief Ortiz asked if they would be providing any security lighting to that area?

Alan Morel said they had not planned any more exterior lighting at this time.

Chief Ortiz asked for emergency response would the RV spaces be numbered?

Alan Morel said they would be numbered and would make sure the access was visible.

Mayor Armstrong entertained a motion to approve Planning & Zoning Commission Case No. 2010-03 Recommendation of Recommendation of Request For Conditional Use Mixed Use Planning Unit Development (M-PUD) Of Lots 7,8, and 9 of Block 5 Of Valley View Subdivision For The Development Of An RV Park With The Condition That A Stop Sign Be Placed At The Entrance/Exit.

Councilor Olivo moved to approve Planning & Zoning Commission Case No. 2010-03 Recommendation of Recommendation of Request For Conditional Use Mixed Use Planning Unit Development (M-PUD) Of Lots 7,8, and 9 of Block 5 Of Valley View Subdivision For The Development Of An RV Park With The Condition That A Stop Sign Be Placed At The Entrance/Exit. Seconded by Councilor Hood.

Councilor Holman said he would like to mention that Planning & Zoning spent a lot of time on this so apparently it was not an easy decision on their part. They took this very seriously and he appreciated that. He said he spent some time with Steve Dunigan this afternoon and asked several questions. He said Steve gave him a lot of information, no more and no less than what he asked for. He got to the point and realized the effort that Planning & Zoning put forth on this.

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 keep Ruidoso Downs Beautiful Request To Remove Old Cigarette Alley Sign To Place Flag Pole At Center of Flat Area.

Judy Miller, Chairperson of the Keep Ruidoso Downs Beautiful committee said she met with Cleatus today because they want to put a flagpole in All American Park and put some beautification around it, more or less an area they could plant some flowers or shrubs. They could do bricks; mortar, flowers, trees but they couldn't do the flagpole. She said maybe at some time they may have to decide where they could buy the flagpole. She said maybe it could come from Lodgers' Tax. She said right now they have to spend this money before the end of the month. They have a \$7,000 grant and have purchased a sign for events at the park, and trees. She explained the diagram that was included in their packets.

Mayor Armstrong said Cleatus had been working on some plans to extend the walking area.

Beth Miller, Chairperson for the Lodgers' Tax committee and said she heard her mention Lodgers' Tax money and she was welcome to do that but they only deal with \$25,000 and that is basically for events. She said she didn't think this was something for the Lodgers' Tax committee and that it was more for the council.

Cleatus Richards, Public Works Director said they are looking at flagpoles and they are running \$00 to \$600.

Mayor Armstrong said he believed that All American Park should have an All American flag.

Cleatus Richards said the sign is definitely down.

Mayor Armstrong entertained a motion to approve Keep Ruidoso Downs Beautiful Request To Remove Old Cigarette Alley Sign To Place Flag Pole At Center Of Flat Area.

Councilor Olivo moved to approve Keep Ruidoso Downs Beautiful Request To Remove Old Cigarette Alley Sign to Place Flag Pole At Center Of Flat Area. 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 Approving Personnel Recommendation-Position-Outreach/Gift Shop Assistant-Hubbard Museum of the American West.

Jay Smith, Museum Director said this was not a new position. The person they would like to recommend is Teresa Dunlap and she has experience in retail. She has worked at Wal-Mart and Ruidoso Downs Racetrack and Wells Fargo Bank. She would replace Connie Hernandez who was now working in the Police Department.

Mayor Armstrong entertained a motion to approve Personnel Recommendation-Position-Outreach/Gift Shop Assistant-Hubbard Museum of the American West.

Councilor Williams moved to approve Personnel Recommendation-Position-Outreach/Gift Shop Assistant-Hubbard Museum of the American West. 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 Wastewater Treatment Plant Operating Invoice for May 2010.

Terri Mosley, Finance Director said she verified everything on the invoice and it was correct.

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

Councilor Hood moved to approve Wastewater Treatment Plant Operating Invoice for May 2010. Seconded by Councilor Williams.

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.

Wayne Williams said he wanted to thank Chief Ortiz for the quick response given to the abandoned car at the end of his street. He said he drove down to Riverside Park and noticed trash cans were in place and assumed the Beautification Committee and Parks & Rec had something to do with it too. He also noticed the railroad ties and gravel work that was being done down there and appreciated that. He said he wanted to mention about the Lincoln County Transit and that he thought it was unconstitutional and that it was going in direct competition with private enterprise. This increase in public tax money, citizen's taxes to support one single enterprise. If that is not unconstitutional then he said something is deadly wrong if they can tax on all the tax-paying population to benefit one private enterprise. He said he didn't want to see the Hubbard Museum leave either but to tax the entire population for one private enterprise then the next thing you're going to do is tax it to support the gas station down the street. He said he didn't think the City should get behind this. He said he thought it was unconstitutional.

Sebrina Lundquist said she would like to make a request. She said she lives on River Lane and would like to know if that road could be paved. She said there was a lot of traffic and a lot of dirt. There are also a lot of commercial trucks and horse trailers.

Mayor Armstrong said he believed they had that in the plan.

Paul van Gulick said he wanted to respond on the issue of the track. His opinion was that this was an Economic Development issue and it was not a tax that was being forced on us. He said it was coming up for a special election and they will have a chance to think about it and discuss it amongst themselves and decide if this was an investment they wanted to make. In talking with some of them it was pointed out what we were doing for businesses that were

here? From the states point of view they already have tax on the gaming and we need to make up the shortfall somehow. He said he felt it was worth the investment.

Judy Miller said it was very important to do everything they can to keep the racetrack here. It employs 150 people in the winter and 100 people or more in the summer. She said our whole area would go down hill without the racetrack. She said her mother worked there 27 years and her husband worked there until he died. The people in this area depend on that employment.

Beth Miller said she didn't understand and wanted John to explain how he was going to speak for the racetrack.

H. John Underwood said he would speak a various events and make whatever appearances as requested at public events to speak in favor of the passage of Economic Development Ordinance and speak as a proponent for the City of Ruidoso Downs as part of his legal services agreement.

Beth Miller asked if he and Zach Cook were both employed by the village?

H. John Underwood said it was the law firm of H. John Underwood, LTD as the city attorney and there were two lawyers and that was H. John Underwood and Zach Cook. They try to share those duties and there are certain that he pays attention to because of his background and training.

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. Escondido Hill Subdivision and Avalon Development and Pursuant to § 10-15-1 H8 Real Property and Water Rights.

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 Escondido Hill Subdivision and Avalon Development and Pursuant to § 10-15-1 H8 Real Property and Water Rights.

Councilor Holman moved to go into Closed Session for Discussion of Threatening and/or Litigation pursuant § 10-15-1 H7 NMSA 1978 Escondido Hill Subdivision and Avalon Development and Pursuant to § 10-15-1 H8 Real Property and Water Rights. Seconded by Councilor Olivo.

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

Mayor Armstrong closed the regular meeting at 6:35 p.m. and invited John Underwood, 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 8:11 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 Escondido Hill Subdivision and Avalon Development and Pursuant to § 10-15-1 H8 Real Property and Water Rights 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 Escondido Hill Subdivision and Avalon Development and Pursuant to § 10-15-1 H8 Real Property and Water Rights and no action was taken.

ADJOURNMENT

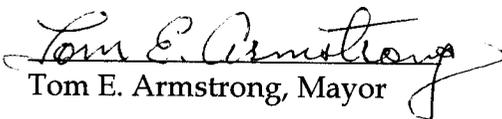
They're being no further business to attend to Mayor Armstrong entertained a motion to adjourn.

Councilor Hood moved to adjourn at 8:12 p.m. Seconded by Councilor Williams.

All were in favor and motion passed.



Carol Virden, City Clerk/Treasurer


Tom E. Armstrong, Mayor