

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
OCTOBER 25, 2010
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on October 25, 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
H. John Underwood, City Attorney
Cleatus Richards, Public Works Director
Terri Mosley, Finance Director
Steve Dunigan, Planning & Zoning Director
A.C. Ortiz, Chief of Police
Jim Kofakis, Interim Museum Director

APPROVAL OF AGENDA

Mayor Armstrong stated next item on the agenda was approval of the agenda. He said he would be pulling Item #12E from the agenda.

H. John Underwood, City Attorney told the councilors that this item had basically been taken care of by the legal action that had taken place. The legal action requires that they report back to the court before November 5th so there is no reason to go forth with the proposed agreement.

Mayor Armstrong entertained a motion to approve the Agenda with pulling Item #12E.

Councilor William moved to approve the Agenda with pulling Item #12E. 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 Hood.

Councilor Williams said he would like to discuss one of the Committee Reports and one of the Monthly Reports.

Councilor Williams said the Beautification Committee held the Trek for Trash cleanup on the weekend before last. He said 21 people came and the mayor and wanted to say that they appreciated that. There were 51 bags of trash collected along with items such as metal roofing, metal steps, BBQ grill, microwaves, and boxes of items that were picked up and disposed of. He said they would like to thank Wal-Mart for their generous donation of food, drinks, and coffee. Councilor Williams said the committee would also like to thank the following for the public service announcements: Ruidoso News, Ruidoso Free Press, and MTD Radio.

Councilor Williams said he would like to ask why at the end of the Public Works reports they have September 2010 and they have information on the sewer hookup when it was just taking place in October? He said it would have been more prudent to have it in the October 2010 report. He said he would like to see it in the October 2010 package. He said he would also like to ask the Public Works Director on the first page about the Regional Wastewater Treatment Plant Phase I. They show it is 56% complete. He said the documents they were given in October from Molzen-Corbin said 70% complete. He asked which figure should they go by?

Cleatus Richards, Public Works Director said the latter.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF OCTOBER 12, 2010

Councilor Williams moved to approve Minutes of Regular Meeting of October 12, 2010. Seconded by Councilor Hood.

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 Hood.

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 Hood.

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 Hood.

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-Consider Approving Memorandum of Cooperative Agreement Between Counties and Municipalities Regarding PNM Claims for Cost of Fuel Adjustments and Pending Application for Rate Increase.

H. John Underwood, City Attorney said a review of the minutes from the last meeting when this was discussed and reading the news of the Village of Ruidoso and the County of Lincoln disposition. He said he would recommend to them that there is no problem entering into a cooperative agreement but he would like to be able to amend the agreement appropriately. He said he would start with paragraph 5 where it says, "provide funding when feasible for the accomplishment of the goals and purposes mentioned herein." He said he would like where any funding for which the City would be responsible has to come back to the City for the councilors to approve. He said that was a reasonable amendment. On paragraphs 9 & 10 speaks to the fact that the "method and amount of initial funding for this group shall be decided by unanimous vote by this membership." He said this again is in regard to expenditures and said he would also like for this to come back for approval of the City Councilors. He said even if our representative were there and voted in favor of and it had not been approved by our City councilors it would not be considered approval of the expenditure. He said any paragraphs relating to that this group needs to keep a handle on any funding. The other

issue is in paragraph 12. It talks about “the meetings of this group shall not be considered public meetings subject to Municipal Open Meetings Act.” He said he would like to amend that to read “meetings are subject to the Open Meetings Act if applicable.” He said he didn’t know who crafted this document or what legal advice they were given or how they are going to call their meeting but it seems like if you are going to have a meeting to spend public money it should be subject to the Open Meetings Act when applicable and the same thing to public records. If the Public Records Act is applicable to this certain group he would like it to say that they will comply with the Public Records Act and the Open Meetings Act. In paragraph 14 it states “that if any member who independently negotiates with PNM for local rate accommodations shall disclose the negotiations and shall take no action which will be prejudicial to the interest of the other members of this group.” It’s very difficult to determine whether or not one member of the group and their negotiations would be prejudicial or not. He said he thought they would want to amend that to state that “any member who independently negotiates and enters into an agreement that the agreement would be approved by this group or that the member would have to recuse themselves or resign from this group prior to entering into such agreement.” Otherwise, who determines what is and is not prejudicial? He said he understands that one municipality or another may be offered to because they have more power and the others that they may be offered some sort of a deal. But, if we’re a group then we’re a group and it should draw back to this body for approval. If this group is formed by this memorandum then that should be a precedent. He said these are the amendments that he would recommend for them to authorize him to put into this document. He said with those amendments he would recommend the mayor to authorize and send back to the appropriate party/

Mayor Armstrong entertained a motion to approve the Memorandum of Cooperative Agreement Between Counties and Municipalities Regarding PNM Claims for Cost of Fuel Adjustments and Pending Application for Rate Increase with the proposed amendments as stated by H. John Underwood, City Attorney.

Councilor Williams moved to approve the Memorandum of Cooperative Agreement Between Counties and Municipalities Regarding PNM Claims for Cost of Fuel Adjustments and Pending Application for Rate Increase with the proposed amendments as stated by H. John Underwood, City Attorney. Seconded by Councilor Olivo.

Councilor Williams asked if this agreement has been approved any of the other municipalities?

H. John Underwood, City Attorney said he did not know. The only things he heard about was what he read about in the newspaper. One was amended by the Village of Ruidoso similar to how ours was being amended and the other was not approved by the County of Lincoln because they did not want any added fiscal obligation.

Councilor Williams said he wondered if any other municipalities had approved it with the wording as stated how it would affect us.

H. John Underwood, City Attorney said he suspected that any amendments would be sent back to the group and there would be a revised document.

Councilor Williams said he read in the newspaper too about cost increases that may come about. He asked if we had done any research about how much this cost increase would cost us?

Mayor Armstrong said the idea was to get all of the mayors so that it would not cost back. There were a lot of small towns that did not have any money and we are the same.

Councilor Williams said what he was trying to get at was that if this increase went through how much it would cost us on our electric bills?

Mayor Armstrong said that would be determined by the PRC and they are the people who give the rate to PNM and that has not been determined.

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

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.

Councilor Olivo said he would like to mention that in our parks our baseball fields are being used by Little League. On Thursday there was no parking and there were a lot of kids on Saturday that came down from Ruidoso because Ruidoso couldn't provide them with lights. He said he was pleased that the mayor approved them to be down here and the parents are real excited about it.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was Consider Approving Personnel Recommendation-Position-Full Time Driver-Lincoln County Transit.

Mayor Armstrong entertained a motion to approve Personnel Recommendation-Position-Full Time Driver-Lincoln County Transit.

Councilor Williams moved to approve Personnel Recommendation-Position-Full Time Driver-Lincoln County Transit. Seconded by Councilor Hood.

Councilor Williams asked how much per hour this employee would receive?

Carol Virden, City Clerk/Treasurer said it would be \$9.27 per hour.

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-Full Time-Street Maintenance-Public Works Department.

Mayor Armstrong entertained a motion to approve Personnel Recommendations-Positions-Full Time-Street Maintenance-Public Works Department.

Councilor Olivo moved to approve Personnel Recommendations-Positions-Full Time-Street Maintenance-Public Works Department. Seconded by Councilor Hood.

Councilor Williams said they mentioned two positions? He asked if these were open positions or were they created?

Cleatus Richards, Public Works Director said they were open positions due to resignations.

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-Police Officer-Ruidoso Downs Police Department.

Chief Ortiz said he would like to recommend Darrell C. Chavez for an open position for Police Officer. He comes to us from the Carrizozo Police Department and he is an experienced Police Officer and has passed all of the background review for this position.

Mayor Armstrong entertained a motion to approve Personnel Recommendation-Position-Police Officer-Ruidoso Downs Police Department.

Councilor Hood moved to approve Personnel Recommendation-Position-Police Officer-Ruidoso Downs Police Department. Seconded by Councilor Williams.

Councilor Hood asked Chief Ortiz if this individual was going to live in Ruidoso Downs?

Chief Ortiz said he would be residing in Carrizozo.

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 Memorandum of Understanding Between the New Mexico Film Division of the Economic Development Department and Local Government Film Liaisons.

H. John Underwood, City Attorney said he was asked to review this Memorandum of Understanding to see if it had any legal implications against the City of Ruidoso Downs either liability-wise or expense-wise and he said he saw it as basically a cooperative memorandum that this individual acts as our liaison to the Film office. He said there were no legal problems of liability or expenses.

Mayor Armstrong said this person is Harold Oakes.

Councilor Williams asked that Harold Oakes come to a meeting in the very near future to let them know what role he has in this capacity and what we could do as a community to back him?

Mayor Armstrong said yes.

Mayor Armstrong entertained a motion to approve the Memorandum of Understanding Between the New Mexico Film Division of the Economic Development Department and Local Government Film Liaisons. Seconded by Councilor Olivo.

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 had a question about Item #10 and that our attorney seemed to think you could make a separate agreement with PNM and had to voted on. That was the impression he got. He said what he understood with this cooperative agreement is they were basically having a lobbying group with the PRC. He said you cannot make a private agreement with PNM in any way, shape, or form on rates. Rates are set by the PRC. He said another thing was on Item #12A when they approved a full-time employee for Lincoln County Transit he would recommend that they reconsider that due to the

possibility of Lincoln County not funding Lincoln County Transit and even Ruidoso cutting back. In that case if Lincoln County Transit was ever disposed of because the burden was too heavy for Ruidoso Downs they would be stuck with another full-time employee that becomes automatically a Ruidoso Downs full-time employee.

CLOSED SESSION

Discussion of Threatening and/or Pending Litigation Pursuant to § 10-15-1 H7. NMSA 1978: Limited Personnel Matters Pursuant to § 10-15-1 H2. NMSA 1978 Discussion of Chief of Police in Terms of Probation.

Mayor Armstrong entertained a motion to go into Closed Session for Discussion of Threatening and/or Pending Litigation Pursuant to § 10-15-1 H7. NMSA 1978: Limited Personnel Matters Pursuant to § 10-15-1 H2. NMSA 1978 Discussion of Chief of Police in Terms of Probation.

Councilor Hood moved to go into Closed Session for Discussion of Threatening and/or Pending Litigation Pursuant to § 10-15-1 H7. NMSA 1978: Limited Personnel Matters Pursuant to § 10-15-1 H2. NMSA 1978 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 5:58 and invited H. John Underwood; City Attorney, Carol Viriden; City Clerk/Treasurer, Cleatus Richards; Public Works Director and Randy Reynolds and called for a five-minute recess.

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

Councilor Olivo 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 8:20 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 Pending Litigation Pursuant to § 10-15-1 H7. NMSA 1978: Limited Personnel Matters Pursuant to § 10-15-1 H2. NMSA 1978 Discussion of Chief of Police in Terms of Probation.

Councilor Hood attested to the fact that the only items discussed in Closed Session were that of Discussion of Threatening and/or Pending Litigation Pursuant to

§ 10-15-1 H7. NMSA 1978: Limited Personnel Matters Pursuant to § 10-15-1 H2. NMSA 1978 Discussion of Chief of Police in Terms of Probation and no action was taken.

ADJOURNMENT

There being no further business, Mayor Armstrong entertained a motion for adjournment.

Councilor Olivo moved to adjourn at 8:20 p.m. Seconded by Councilor Holman.

All were in favor and motion passed.



ATTEST:

A handwritten signature in cursive script, appearing to read "Carol Virden", is written over a horizontal line.

Carol Virden, City Clerk/Treasurer

A handwritten signature in cursive script, appearing to read "Tom E. Armstrong", is written over a horizontal line.
Tom E. Armstrong, Mayor