

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
MAY 9, 2011
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on May 9, 2011. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Chief Babcock 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:

Zack Cook, City Attorney
Carol Virden, City Clerk/Treasurer
Doug Babcock, Police Chief
Terri Mosley, Finance Director
Steve Dunigan, Planning & Zoning Director
Cleatus Richards, Public Works Director
Jim Kofakis, Museum Director

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

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

APPROVAL OF MINUTES OF REGULAR MEETING OF APRIL 25, 2011.

Councilor Williams moved to approve Minutes of Regular Meeting of April 25, 2011. 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.

PUBLIC HEARING

ORDINANCE NO. 2011-03

AN ORDINANCE AMENDING TITLE III: ADMINISTRATION CHAPTER 32 CITY OFFICIALS; "GENERAL PROVISIONS" SECTION 32.001 TITLED "APPOINTIVE OFFICERS"; REPEAL SECTION 32.022 TITLED "DESIGNATION AS CHIEF PURCHASING OFFICER; DUTIES"; REPEAL SECTION 32.023 TITLED "BUDGETED AND UNBUDGETED ITEMS AND SERVICES" REPEAL SECTION 32.024 TITLED "RECEIPT AND INSPECTION OF PURCHASES: REPEAL SECTION 32.025 TITLED ANNUAL INVENTORY" AMEND CITY CLERK SECTION 32.055 TITLED "APPOINTMENT"; REPEAL DIRECTOR OF PUBLIC WORKS SECTION 32.085 TITLED "APPOINTMENT": REPEAL SECTION 32.086 TITLED "DUTIES" REPEAL FIRE CHIEF 32.100 TITLED "APPOINTMENT"; REPEAL SECTION 32.101 TITLED "DUTIES" OF THE CITY OF RUIDOSO DOWNS CODE OF ORDINANCES.

Carol Virden, City Clerk/Treasurer said the purpose of Ordinance 2011-03 is a general clean up to comply with New Mexico State Statutes 1978 and Personnel Policy Manual as revised by the Governing Body at the December 14, 2009 and the March 22, 2010 City Council meeting. The General Provisions 32.001 "Appointed Officers" is to be consistent with the Personnel Policy Manual, Chapter 3, Employees Category Rule 300. Item 32.022 "Designation as Chief Purchasing Officer", "Duties" 32 023 "Budgeted and Unbudgeted Items and Services"; 32.024 "Receipt and Inspection of Purchases", 32.025 "Annual Inventory." The City of Ruidoso Downs employs a Finance/Procurement Director whose duties are outlined in the job description to all of the above sections. Under "City Clerk" 32.055 "Appointment", the City Clerk is appointed by the Mayor with the concurrence of the Governing Body and that is to follow 3.11.5 New Mexico State Statutes 1978. "Director of Public Works" 32.085 "Appointment", 32.086 "Duties", A1 through 6B and C is to be consistent with Personnel

Policy Manual, Chapter 3, Rule 300, "Duties Outlined in Job Description." "Fire Chief" 32.100 "Appointment" is to be consistent with Personnel Policy Manual, Chapter 3, Rule 300. 32.101 "Duties" are outlined in the job description.

Mayor Armstrong said he hereby opened the Public Hearing for comments and would be accepting in the following order. Interested persons must approach the podium, state their name and present their testimony. A limit of three minutes will be allowed per person. Are there any persons here to speak in opposition of the action?

There were no persons to speak in opposition of the action.

Mayor Armstrong asked if there were any persons here to speak in support of the action?

There were no persons to speak in support of the action.

Mayor Armstrong said he would hereby close the Public Hearing.

Mayor Armstrong entertained a motion to adopt Ordinance No. 2011-03.

Councilor Williams moved to adopt Ordinance No. 2011-03. 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.

Mayor Armstrong stated next item on the agenda was - Employee of the 1st Quarter 2011 - Emma Herrera.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was - Consideration to Rescind Motion taken by the Governing Body of April 25, 2011 relating to Ordinance No. 2011-02.

Carol Virden, City Clerk/Treasurer said she would like to apologize for a procedural error concerning the action taken by the Governing Body regarding Ordinance No. 2011-02. On occasion we are all individuals who make such errors. At times when we make errors, errors work in the best interest of all. The proper course of action should have allowed Mayor Armstrong to vote on Ordinance No. 2011-02. Again, I apologize and I am not perfect. I really

feel that we didn't afford the public or the Governing Body the opportunity to get in depth with this Ordinance and allowing them to call for a Work Session to discuss Ordinance No. 2011-02.

Councilor Holman said he would like to make a motion to rescind Ordinance 2011-02 so they can look at it a little closer. Seconded by Councilor Williams.

Carol Virden, City Clerk/Treasurer said just for clarification Councilor Holman moved to approve to rescind the motion taken by the Governing Body of April 25, 2011 relating to Ordinance No. 2011-02. Seconded by Councilor Williams.

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

Mayor Armstrong entertained a motion to postpone action on Ordinance No. 2011-02 until May 23, 2011.

Councilor Olivo moved to postpone any action on Ordinance No. 2011-02 until May 23, 2011. Seconded by Councilor Williams.

Councilor Williams asked if there was going to be a Work Shop between now and May 23, 2011?

Mayor Armstrong said that was what they were trying to get set up.

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 Scheduling Budget Workshop(s) Date(s) FY 2011-2012 and Workshop for the Discussion of Ordinance No. 2011-02.

Carol Virden, City Clerk/Treasurer said what staff is requesting is possibly to have both work sessions, one for the budget and one for the discussion of Ordinance No. 2011-02, possibly for Wednesday May 18th at 3:30 p.m. If you need more than one on the Budget Workshop then they could have it Tuesday and Wednesday at 3:30 p.m.

Councilor Williams said if they could schedule both of these on one meeting it would be more to their advantage. There would be presentations from the departments and give a chance for public input or at least let them know what the budget requirements are and what is trying to be accomplished. The Public Works director will have information for us so they could make inquiries. He said a one-day workshop would be fine but at an earlier time so it doesn't go past 5:00.

Councilor Holman said he concurred with Councilor Williams and would prefer one meeting instead of setting two meetings today and just set one. If they need more time they could do that.

Councilor Williams said the discussion on the water was going to take some time they should set one meeting and if they need to set another.

Carol Virden, City Clerk/Treasurer said she suggests setting two days for the Budget Workshops as well as the Work Session for Ordinance 2011-02 and the time whether they need two or not it would behoove us when we do the publication. If they don't need two then she would just issue the cancellation notice.

Councilor Holman agreed.

Councilor Williams moved to schedule Budget Workshop(s) Date(s) FY 2011-2012 and Workshop for the Discussion of Ordinance No. 2011-02 Wednesday, May 18, 2011 at 3:30 p.m. If the workshop needed more time for discussion then schedule an additional meeting for Thursday, May 19, 2011 at 3:30 p.m. 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 Memorandum of Agreement Comprehensive Community DWI Prevention Program Between the City of Ruidoso Downs, The County of Lincoln, and the Village of Ruidoso.

Chief Babcock said this agreement involves the fee of \$75.00 assessed on DWI convictions that are sent to a fund to help prevent DWI.

Mr. Hansen said this is a separate grant that he puts in for every year. It is give through Traffic Safety and involves a \$75.00 fee assessed after conviction through the courts. This year it's going to amount to somewhere near \$17,000 and it's been given over the past years to overtime. He said the reason he started doing it like this is because he cannot give all of the departments in the county money. This allows the State Police to get some and then all of the money he puts into enforcement can go between the County, Ruidoso, Ruidoso Downs, Capitan and Carrizozo. He said this year the Downs didn't contribute more than \$300 to this fund because there weren't that many convictions in this reporting found. Last year it was considerably more than that.

Mayor Armstrong said he had a question for the City Attorney. He asked how the court does.

Zack Cook, City Attorney said there is a Municipal Ordinance but he thinks they incite them all into Magistrate Court.

Mr. Hansen said this year there weren't that many into Municipal Court. Magistrate Court contributed about \$15,500 out of the \$17,000 this year.

Councilor Holman said the way that reads is that the first infraction may be handled in our Municipal Courts and then the others would go to Magistrate Court. Our judge elects not to even get involved with it because there are other complications. We have the option though.

Councilor Williams asked if that deviates as to how much money we contribute to how much we receive?

Mr. Hansen said the money Ruidoso Downs receives through the DWI grant is determined more or less by the amount of money he gets total. He said he would put an MOU through for the first meeting in June for the overtime money for Ruidoso Downs Police Department.

Councilor Williams asked if this agreement was also going to be presented to the Village?

Carol Virden, City Clerk/Treasurer said yes.

Councilor Williams said the County signed off on it in March. He asked if there were any changes to the language?

Mr. Hansen said no.

Mayor Armstrong entertained a motion to approve Memorandum of Agreement Comprehensive Community DWI Prevention Program Between the City of Ruidoso Downs, The County of Lincoln, and the Village of Ruidoso.

Councilor Williams moved to approve Memorandum of Agreement Comprehensive Community DWI Prevention Program Between the City of Ruidoso Downs, The County of Lincoln, and the Village of Ruidoso. 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 Agenda Briefing Memorandum – Reject Bid No. 11-001 North Central Drive and River Lane Roadway Improvements (Bid Lot 1) Nevada Lane Roadway Improvements (Bid Lot 2) and Direct URS to Redefine Bid Documents and Advertise.

Mayor Armstrong entertained a motion to approve Agenda Briefing Memorandum – Reject Bid No. 11-001 North Central Drive and River Lane Roadway Improvements (Bid Lot 1) Nevada Lane Roadway Improvements (Bid Lot 2) and Direct URS to Redefine Bid Documents and Advertise.

Councilor Holman moved to approve Agenda Briefing Memorandum – Reject Bid No. 11-001 North Central Drive and River Lane Roadway Improvements (Bid Lot 1) Nevada Lane Roadway Improvements (Bid Lot 2) and Direct URS to Redefine Bid Documents and Advertise. Seconded by Councilor Olivo.

Cleatus Richards, Public Works Director said on May 2, 2011 they opened two bids for North Central and River Lane. The bids came in substantially under the engineer's estimates. They had set up two base bids but that only used about 60% of the available CDBG grant funds and a little less than 80% of the Co-Op funds. The engineer and I are recommending to restructure the bids to add additional alternates so we can be sure to use all of the available grant funds. If we do not use all of those funds in a bid offering we will lose those funds. The work we can accomplish with those funds available should be close to 70% to 80% of the full project for both of these areas. What we are looking at now is substantially less. Losing this amount of money on a poor restructuring bid is a good start.

Councilor Holman said it states, "rejecting bids is contingent on concurrence with the New Mexico Department of Finance/Administration and the Department of Transportation as funding agent."

Cleatus Richards, Public Works Director said each time you reject bids you normally have to go back and get their concurrence and didn't see any problems with discussion on it. Both bid documents and State Statute allow us the latitude to reject bids when it's not in the best interest of the City.

Councilor Williams asked why both companies made the bids so low?

Cleatus Richards, Public Works Director said he was concerned with the engineers estimates early on and felt they were on the high side and we were able to accomplish considerably more by adding additional alternates that will allow us to meet code.

Councilor Williams asked if we would then go out for re-bid?

Cleatus Richards, Public Works Director said yes and they will add more elements as conditions of the alternates.

Councilor Williams asked what the time frame was?

Cleatus Richards, Public Works Director said another 30-40 days to restructure, advertise, and get new bids in.

Councilor Williams asked what the estimate of time was to put hands on?

Cleatus Richards, Public Works Director said around 60 days from now.

Councilor Williams asked is both projects would be concurring?

Cleatus Richards, Public Works Director said yes.

Councilor Williams asked if there were any dangers in the CDBG funding with going through this process?

Carol Virden, City Clerk/Treasurer said if we don't take this route and don't utilize the rest of the almost 60% we certainly don't want to return any money to the CDBG Block grant. If we turn money over and apply again we may not get the full funding as we did in 2010.

Councilor Holman asked if this bidding process included the drainage situation because he thought that was the most difficult drainage problem in the City? He asked if the bids were low because drainage wasn't included?

Cleatus Richards, Public Works Director said the drainage consideration was a major part of both projects. He said both bids were only about \$300 apart.

Councilor Williams asked if we had worked with these two companies before?

Cleatus Richards, Public Works Director said URS did West Drive and the Highway 70 sidewalk project and there was no problem with those projects.

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 Amnesty Program - Accrued Penalties Under §50.20 (c) of City of Ruidoso Downs Code of Ordinances.

Terri Mosley, Finance Director said this is an attempt to collect outstanding utility bills. Staff is requesting a one-month amnesty program. It will allow customers to pay off any amounts owed in full and at the end of the program they will have their penalties forgiven. Stated in the draft letter we are trying to forgive the penalties and take a proactive approach to help the customer to come current and stay current in bills owed for services. Many customers make payments every month but the penalties are higher than what they are paying and so each billing cycle it grows until they throw their hands up and can't afford their bill when it goes into a thousand dollar bill. We have filed some liens and said she hoped some of the owners would also take advantage of this and possibly reconnect their service.

Councilor Olivo moved to approve Amnesty Program - Accrued Penalties Under §50.20 (c) of City of Ruidoso Downs Code of Ordinances. Seconded by Councilor Williams.

Councilor Williams said he would like to ask staff to allow 45 days for the amnesty that would take them through the end of the fiscal year. This would allow more time for the citizens.

Councilor Holman said on the second page was a partial summary of the accounts that were in arrears in excess of \$16,000.00.

Terri Mosley, Finance Director said that would be the amount of outstanding actual billed for services. The penalties is \$20,000.00.

Councilor Holman said if the \$16,000 was partial did they have figures for what the full amount would be? He asked how many of these accounts have had their water turned off?

Terri Mosley, Finance Director said about a quarter of them. So many of them make a monthly payment to keep them from being turned off.

Councilor Williams asked if she could get the councilors a full amount?

Terri Mosley, Finance Director said she could.

Councilor Holman said he had several problems with this. He said he didn't feel this type of thing was fair. Every time when they have problems like this with people they penalize the people that pay their bills every month. This is a form of penalty on people that do the right thing. He said he realizes in today's times we do things that we didn't used to do, even the credit cards and IRS. They will do away with the penalties. This is the only reason he said he would support this concept. He said he would also suggest that they give them a month to pay it off and then turn off the service. When they come in and make that lump sum payment then we would turn it on. He said we could let the owner determine when they are going to come in and pay whether it be the 30 days or 30 minutes to get it turned back on. We have to start getting their attention. It is greatly hurting the City. He said most people can pay but they are just doing other things like going to Circle K to buy beer or cigarettes or if their kid has the newest cell phone. They aren't hurting so bad that they can't pay their bill its just that it's way down on their list.

Mayor Armstrong said they are looking at making it 45 days.

Councilor Holman asked if they were looking at cutting the water off also?

Terri Mosley, Finance Director said in the draft letter she did include that if they didn't pay everything by the 30 days that they would file the lien and turn off the service. She said she would like to give them a chance rather than turn it off immediately.

Mayor Armstrong said if they didn't pay it off in those 45 days then we would shut it off, file a lien on the property for the full amount and pull the meters.

Terri Mosley, Finance Director said once the customer gets current we wouldn't let them get behind.

Councilor Olivo said he would amend his motion to allow 45 days. Councilor Williams agreed.

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. 2011-04 Budget Adjustment.

Terri Mosley, Finance Director said this was mainly just cleanup. They received a \$7,500 grant from the Hubbard Foundation. They budgeted for the revenue but not for the expenditure. Also with the Government Corrections Fund we received more money than what they budgeted for so they increased the revenues and expenditures.

Mayor Armstrong entertained a motion to approve Resolution No. 2011-04 Budget Adjustment.

Councilor Hood moved to approve Resolution No. 2011-04 Budget Adjustment. 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 Mayor’s Recommendation – Economic Development Board – Joyce Gustafson.

Mayor Armstrong entertained a motion to approve Mayor’s Recommendation – Economic Development Board – Joyce Gustafson.

Councilor Williams moved to approve Mayor’s Recommendation – Economic Development Board – Joyce Gustafson. 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 Lodgers’ Tax Committee Recommendations – FY 2011-2012 Special Events.

Carol Virden, City Clerk/Treasurer said the Lodgers’ Tax Committee met and made the recommendations to the Governing Body under the new guidelines for Lodgers’ Tax on a point system. The Governing Body can at any time tonight make adjustments to their recommendations.

<u>FUNCTION</u>	<u>AMOUNT REQUESTED</u>	<u>RECOMMENDATION</u>
Chamber Music Festival	\$1,500	\$ 311.85
BTK Casino Chute Out	\$5,000	\$1,125.00
Military Appreciation Weekend	\$5,000	\$1,620.00
MAW Heroes Weekend	\$5,000	\$ -0-
Alto Artist's Studio Tour	\$ 750	\$ -0-
Aspen Cash Motorcycle Rally	\$5,000	\$3,645.00
Golden Aspen Motorcycle Rally	\$5,000	\$5,000.00
Lincoln Cty. Cowboy Symposium	\$5,000	\$5,000.00
Ruidoso Oktoberfest	\$2,000	\$1,053.00
Ruidoso Chili Society	\$4,000	\$ 607.50
Fort Stanton Live	\$2,500	\$ 540.00
Christmas Jubilee 2011	\$1,500	\$1,215.00
Rds. Noon Lions-Crafts/Guns	\$ 300	\$ 180.00
NM Square & Round Dancers	\$1,000	\$ 62.00
		(allocated Jan. 2011)

Mayor Armstrong entertained a motion to approve Lodgers' Tax Committee Recommendations - FY 2011-2012 Special Events.

Councilor Hood moved to approve Lodgers' Tax Committee Recommendations - FY 2011-2012 Special Events. Seconded by Councilor Williams.

Councilor Williams he appreciated the committees' recommendations and input although he said he had concerns. He said the Golden Aspen Rally was not going to be in the City this year. He said he would like to see that number brought down and added to the Cowboy Symposium and possibly to the Chili Cook-off. He said is recommendation is because we would lose a lot of GRT from the vendors that would usually be at the Motorcycle Rally. He said some could also be allocated to the Chute Out coming in June.

Councilor Hood said he agreed in cutting some of the money from the Motorcycle Rally and giving some to the Chute Out, Chili Contest, and the Symposium.

Councilor Holman said he didn't have a problem with that but that he was a little sensitive that we have volunteers do this and then if the council overrides them but he agreed with Councilor Williams.

Councilor Williams asked if some of the members would be able to meet to discuss their recommendations?

Carol Virden, City Clerk/Treasurer said she could arrange that.

Councilor Hood amended his motion to postpone for discussion until the Budget Workshop. 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.

Pam Williams read from a letter stating that she demanded Municipal reform. She said we needed improved services and decreased costs. Looking at previous budgets and audits it was obvious that revenues were inflated to balance expenditures. Net deficiencies were noted different from the budgeted deficiencies from the Museum, Utility and Sanitation funds. She said the Public Works Director stated that a municipal enterprise fund must be self-supporting and that was not true. Our city payroll benefits are 65% of payroll and the national average is 25-35%. Employees were given a \$75.00 clothing allowance per month yet uniforms were not required. City employees pay 10% of their health insurance and that was unheard of. She said they should look at the contribution of retirement funds of City vested employees. When deciding water and wastewater utility rates a billing analysis should be developed to determine user trends to determine the number of step rates and the amount of flow allowed for water/sewer customers.

Mayor Armstrong said her three-minute time limit was up.

Joyce Gustafson said she would finish the letter from Pam Williams. She said this would provide a comparison of the total amount of a current water/sewer bill to the proposed water/sewer bill. It would also identify where rate shock could occur. An analysis would provide officials an opportunity to see the dollar effect on a range of customer for each of the rate proposal. She said I am in shock that we paid URS Corporation \$5,486 to define bid documents and to reject the bids because they were too low. The grant and coop funds were underutilized. We ask why our nation is in the shape it is in. The letter stated that you people need to do your homework and to keep the citizens of this city in mind and that the citizens were their employers.

ADJOURNMENT

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

Councilor Williams moved to adjourn at 6:36 p.m. Seconded by Councilor Holman.

All were in favor and motion passed.


Tom E. Armstrong
Tom E. Armstrong, Mayor

ATTEST:

Carol Virden
Carol Virden, City Clerk/Treasurer