

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
SEPTEMBER 10, 2012
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on September 10, 2012. Mayor Williams called the meeting to order at 5:30 p.m. and asked H. John Underwood, City Attorney to lead the Pledge of Allegiance. Mayor Williams asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Holman
Councilor Miller

Councilor Perry

Not present: Councilor Hood

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

Also present:

Carol Virden, City Clerk/Treasurer
H. John Underwood, City Attorney

APPROVAL OF AGENDA

Mayor Williams stated next item on the agenda was Approval of Agenda.

Mayor Williams stated he would like to remove Item 8 Public Hearing and Item 10 under New Business and postpone until the Regular Meeting of September 24, 2012. He entertained a motion to approve the Agenda with those changes.

Councilor Miller moved to approve the agenda with the removal of Item 8 Public Hearing and Item 10 under New Business and postpone until the Regular meeting of September 24, 2012. Seconded by Councilor Holman with those changes.

Roll call votes: Councilor Holman, Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor Williams stated next item on the agenda was approval of the Consent Agenda and asked that Item E under New Business be removed and postponed until the next agenda and

maybe they would have the information at that time.

Mayor Williams entertained a motion to approve the Consent Agenda with that change.

Councilor Miller moved to approve the Consent Agenda with the removal of Item E under New Business and postpone until the next agenda. Seconded by Councilor Perry with that change.

Roll call votes: Councilor Holman, Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF MINUTES OF REGULAR MEETING OF AUGUST 27, 2012

Councilor Miller moved to approve the Minutes of the Regular Meeting of August 27, 2012. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLE

Councilor Miller moved to approve Accounts Payable. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

Mayor Williams stated the next item on the agenda was – Mayor's Comments.

Mayor Williams said I would like to thank the volunteers in the Fire Department who help Kenny Ellard and for their participation in the MDA drive which took place over the Labor Day weekend. They were positioned at the Wal-Mart light and collected \$6,396 for Muscular Dystrophy Association or Jerry's Kids, as they are known. There was a round of applause. He named Cory Myers, Heath Keck, Billy Hall, Shale Layher, Mike Weise, Bill Mceachy, Jonathan Smith, Jacob Rodriguez, Chris Dettmer, and Ryan Schweizer. They volunteered their time, didn't get paid for it, and no one got hurt.

Mayor Williams said there were some kudos that needed to be passed on to our Animal Control Officer and copies were given to each of the Council members. There was a letter written by Dick and Kire Swenor thanking Charles Massey for his diligent work and help with the aromatic black and white "puddy tats" from the Spaghetti Flats area.

Mayor Williams said I would also like to thank all of the residents who participated in the election last week, either pro or con. Those people took the time to come out to vote and it shows the interest they have in their community.

Mayor Williams stated the next item on the agenda was - Councilor's Comments.

Councilor Miller said I wanted to talk about some things coming up. She said we have two cleanups a year and Toss No Mas will be on September 22nd and will be in All American Park from 8:00 until noon. We are also having the Tire Amnesty going on Friday and Saturday. We are doing things a little different this year and are having a Tailgate Flea Market for anyone who would like to bring stuff so they can sell, recycle, redo, renew and that is part of our recycling. Bring something recyclable, or trade, or sell and we are going to be getting the word out. Our chairperson Sebrina Lundquist is here tonight if there were questions but we are going to be handing out these flyers and we're going to have lunch and prizes and a good time on September 22nd.

Councilor Holman said I would like to point out that there are two councilors that were elected in the last election and have been on the council for a little while now and we're at the point where we know where they are coming from. I'd like to compliment Councilor Judy Miller and Councilor Dale Perry for doing a fantastic job. As most of you know I am usually the dissenting vote on this council so far and on the previous Council so far. I suppose I've been the dissenting vote more than anybody else but even when they vote against me it's a very healthy process and it makes the democratic process work and if they would vote with me more it would be a more democratic process but they vote their convictions and do the right thing and don't let someone else tell them how to vote. It's refreshing. That is not always the case in New Mexico. I appreciate them greatly. I tell this story once in a while about a previous elected official, and I know scattered around the state it happens, in the past when I've voted no and another councilor votes yes, I'd see the mayor after the meeting and he'd say that was terrible, so I'd tell him you're buying coffee in the morning, and that's how it should be. I think the public knows they aren't dictated by anybody. Thank you guys, you're making the democratic process work.

Mayor Williams stated the next item on the agenda was - Appointment of City Clerk/Treasurer - Pursuant to Chapter 32: City Officials Section 32.001 Appointive Officers the Mayor shall submit, for confirmation by the Governing Body, the names of persons who shall be employed to fill the Appointive Officers of City Clerk/Treasurer, Chief of Police and City Attorney.

Mayor Williams submitted the name of Carol Virden to the appointment of City Clerk/Treasurer and asked for confirmation by the Governing Body.

Councilor Holman asked Mayor Williams what they need to do at this point?

Mayor Williams said they could put in a motion and a second we can discuss it but that's the name I put in.

Councilor Holman moved to accept the Mayor's appointment of Carol Virden as the City Clerk/Treasurer for the City of Ruidoso Downs. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Judge Harrold Mansell administered the oath of office as follows, asked Carol Virden to raise her right hand and was asked to repeat after him:

I, Carol Virden, having been appointed to the office of City Clerk/Treasurer in the City of Ruidoso Downs, State of New Mexico, do solemnly swear that I will support the Constitution of the United States, the Constitution and laws of the State of New Mexico, Lincoln County, and faithfully and impartially discharge duties of said office to the best of my ability, so help me God.

There was a round of applause.

Judge Harrold Mansell said she is duly sworn in on September 10, 2012

Mayor Williams stated the next item on the agenda was - Consider Approving Agenda Briefing Memorandum - Patrol Corporal Position - Ruidoso Downs Police Department.

Chief Babcock said the Police Department needs to fill the position of Patrol Corporal. This position will facilitate a supervisor on duty during evening and night hours depending on assigned schedule. We will take an officer from the patrol level and it will be funded from the line item in Police funding incorporated in the FY 2012-2013 budget. The salary level for the Police Corporal position is \$19.75 per hour. Promotion will be done from the standardized testing obtained from the International Public Management Association. It will come from the company's human resources department and in addition there will be a review board consisting of representative from Ruidoso Downs, the DA's office, and area law enforcement officers. They will review the candidates' work and length of service. The final phase will be an interview with the Ruidoso Downs Police Chief. The process will take approximately six weeks once the position is announced to do officers study preparation time and do the testing for each.

Councilor Holman said from the research I've done and the information I recall that I think you are entitled to not only one but two Corporal positions as a result of Council action that occurred in November 2004. I have the documents supporting this Council action and I'm not aware of any Council action since then that would have changed anything on this. It would have had to be changed by Council action. We need to look at and see where we are on this because I think you are entitled to two Corporals. I'd like to hand out some documents that will show that particular situation and the documents leading up to that. Then we can decide where we need to go with this and whether we need to take different action on it.

Councilor Holman read excerpts from August 25, 2009: It states, "Mr. Holman, this is to clear up a misconception that you have about DPS. Mr. John Waters did not create DPS as per your statement last evening. The reorganization of DPS took place through Council action on November 8, 2004. The vote was 4 to nothing. Your statements were without merit or fact. Your attempts to discredit my reputation as a Council member during meetings will end now. Obviously you have not reviewed our Code of Ethics recently. You may want to revisit them. If you continue this trend I will enlist the support of the Mayor to censor any Council member comments that are unwarrantable and uncalled for during a public meeting and have an investigation into the competence of the individual who states them. Showboating and attempts to impress the audience is in direct violation of your responsibilities as a member of the Governing Body of Ruidoso Downs. It is signed by Gary L. Williams who at that time was a Councilor. Copies were sent to Mayor Armstrong and to Carol Virden. On page two there is a memo that is going to tie into the Corporal positions. There is an Interoffice Memorandum from John Waters, City Administrator and it's to Tom Armstrong who was the last Planning & Permitting Supervisor and to Robert Logan, Public Safety Director. He read: (the date is June 2, 2003 and is regarding a Fire Department transfer) "After an extensive review of the history of operations and budget of our Fire Department as well as a review of other municipal departments with the same function I have decided to transfer the Fire Department to the Public Safety Department effective Tuesday, June 3, 2003. Purchasing authority, department equipment and supervision of the department employee will be transferred to Chief Logan on that day. Communication and cooperation between the departments is still expected and you need to meet and work out the transfer of projects and responsibilities by 5:00 p.m. on the transfer date."

Councilor Holman said there were two more paragraphs but were not incidental but you have it before you to read. He said John Waters, as City Administrator, as he indicated, I had made the statement at a Council meeting because the Fire Department and Police Department had been combined because of administrative actions, that could be undone by administrative actions. It doesn't take a Council action. So then at that meeting I had made the statement to Carol Virden and Tom Armstrong who was the Mayor at that time that they could separate those two departments. If you will look under the City of Ruidoso Downs Agenda Briefing Memorandum from John Waters and the attachments it is dated 11-09-04 for the Council meeting date. The topics are from the Executive Department, John Waters and the date is November 5, 2004 and it states, "As per the Mayor's instructions I instructed the Public Safety Department Director to come up with a new organizational structure that better fit our small department and yet allowed for some of the advanced opportunities for the officers. This new structure, which does fit within our budget, replaces the Sergeant and Deputy Chief positions with two Corporal positions that will act as crew leaders. This is not an increase in the current staff levels. The new proposed organizational structure is shown on the attached table. Also attached is a table showing the proposed salary of a new position which is set between the old Sergeant's wage and an officer's base wage."

Councilor Holman said if you will look at that attached organizational chart you will see what the situation is with the Fire Department and the Police Department as per the Department of Public Safety.

Councilor Holman said on the last page, the third block, it shows Police Corporal, crew leader, new position. This further reinforces what I've been saying. Now this last one are the minutes of the regular Council meeting of the City of Ruidoso Downs. It is dated November 8, 2004, it is signed by Bob Miller, attested and signed by Carol Virden. On the second page under New Business it states, "Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the reorganization of the Department of Public Safety." Then they had the roll calls. That was a reorganization from within the Police Department. Not separating the departments. So, Chief, you're asking for a Corporal, you got twice as many as you're asking for.

Chief Babcock said we don't have the budget for two.

Councilor Holman said that's where we'll have to come back in. He asked H. John Underwood, City Attorney if they would need some kind of action to undo some of this? He said Council action is Council action whether it's two weeks ago or two years ago.

H. John Underwood, City Attorney said that was correct and Council has since then approved the budget. He said this was all new information to me since it happened in 2003 and 2004. I would like the opportunity to review the history since then up to the present time. Whatever reorganization we've had, I don't know what occurrences have happened meantime or what the budget has been done by the Council.

Councilor Holman said I wanted that information out there in case there was a no vote for the Chief. He's entitled to not one but two. I wonder if this should maybe wait until you have a chance to look at it.

H. John Underwood, City Attorney said if he's entitled to two and is only asking for one tonight that doesn't indicate that the matter should be put off. There are budgetary issues involved.

Carol Virden, City Clerk/Treasurer said during the budget process Chief Babcock did request a position for a Corporal. The budget committee did grant him that line item. The Governing Body as a whole voted on the 2012-2013 fiscal Budget that included one patrol officer to be a Corporal. There are no extra funds for an additional Corporal for this fiscal budget.

Councilor Holman asked if they were okay to proceed?

H. John Underwood, City Attorney said yes.

Carol Virden, City Clerk/Treasurer said to keep in mind that when they have a budget workshop with the department heads and the Budget Committee the responsibility and duty of the department heads are either to keep the employees at hand or request additional employees. Those come up before Council. Since March 2004 with the new administration coming in and Mayor Armstrong being the chief Administrative official, Councilor Hood,

Councilor Holman, Councilor Olivo, and Councilor Williams the budget that was approved did not include two Corporals. In fact the Council made a motion to separate the DPS and have the Police Department from the Fire Department. We were notified that we did not go through that process correctly, we brought it back to the Council the following Council meeting and put it on the agenda as separate items to take care of. What you are talking about is under the Department of Public Safety which no longer exists.

Councilor Holman said what I am hearing tonight is that they don't have a problem with taking action on one Corporal?

H. John Underwood and Carol Virden said that was correct.

Councilor Miller said the Chief had seven officers and himself was that correct?

Chief Babcock said yes.

Councilor Miller asked if the Corporal would also be a supervisor?

Chief Babcock said yes.

Councilor Miller asked if the Corporal should be on a different shift than the Chief because in the past that hasn't happened.

Chief Babcock said this is the new plan. This will facilitate a supervisor on the night shift and will work a split shift and encompass both shifts. There will be a supervisor more on the weekends and nights.

Carol Virden, City Clerk/Treasurer said it could be a he or a she.

Councilor Miller said I just wanted to be sure there was going to be a supervisor on each shift.

Chief Babcock said the shifts were always changing but there would be a supervisor on each shift.

Councilor Perry asked if we were getting closer to the amount of officers we need?

Chief Babcock said yes.

Councilor Miller asked if each time they change position from Lieutenant to Corporal would it also include a six-month probation?

Chief Babcock said yes.

Mayor Williams entertained a motion to approve Agenda Briefing Memorandum - Patrol Corporal Position - Ruidoso Downs Police Department.

Councilor Miller moved to approve Agenda Briefing Memorandum - Patrol Corporal Position - Ruidoso Downs Police Department. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams state the next item on the agenda was - Discussion and Consideration of Approving Founders Day-October 6, 2012.

Mayor Williams entertained a motion for Discussion and Consideration of Approving Founders Day-October 6, 2012.

Councilor Miller said I asked for this to be put on the agenda because our town is 65 years old on October 9th. The year 1947 was a great year and I feel we need some community togetherness and it would be nice to have a Founders Day in our park and it looks so nice. More people are using it everyday and I wanted to get it approved to use the park. We had a little meeting and talked about having it after the Aspenfest Parade and maybe having some BBQ and a cake. I'm proud of our citizens and our town and it will prosper and grow.

Councilor Holman moved to approve Founders Day October 6, 2012. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item was - Discussion and Consideration of Approving Use of All American Park for Founders Day.

Mayor Williams said the Public Works Director has stated that he has no issues with that for the October event.

Mayor Williams entertained a motion to approve the use of All American Park for Founders Day.

Councilor Holman moved to approve the use of All American Park for Founders Day. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

OTHER BUSINESS

(Items are for discussion only - no action will be taken)

Mayor Williams stated the next item on the agenda was - Official Canvassing of the City of Ruidoso Downs Special Election.

Mayor Williams said what this does is to testify by the Municipal Clerk, Carol Virden, that the election took place by December 2012. The results are as stated and have been posted. The election is certified and is done.

Mayor Williams stated the next item on the agenda was - Presentation to Lincoln County Juvenile Justice Board from Survivors M/C.

Victor Montes said I want to thank you for your support and use of the park. I want to thank Chief Babcock for getting the whole ride escorted. It was a scenic tour going from Highway 70, 380, 220, airport road to 48, came back down and through midtown. Everything went smooth. He said the Chief is a board member of Lincoln County Juvenile Justice.

David Barnett also thanked the Council and Chief Babcock. We made this an annual thing to help the kids in the community. We helped last year with the Community Center and this year with Juvenile Justice. We've been doing this about 25 years now and myself about 19 years and try to give back to the community. There was a round of applause.

Chief Babcock said we definitely appreciate this check from Survivors Clean & Sober. They do a wonderful job.

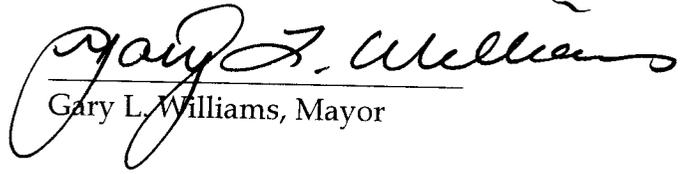
PUBLIC INPUT

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

Wayne Williams said I live in the Downs and have been here fifteen years. My whole life I have been a supporter of the military and our police departments who protect us from almost everything. In the past I have been a supporter of our local Police Department and there were a few things I wasn't supportive of. However, last year I have had one officer basically tell me he was above the law because he was a cop. I had two tell me that if I continued my complaint they would sue. The police has failed to follow up on a grand theft case even after we took it to the State Police we couldn't get any response from either one of them. We have a thin blue line that stretches to the State Police too. I consider two of these police officers my personal friends but instead of promoting one to Corporal maybe we should just start from scratch.

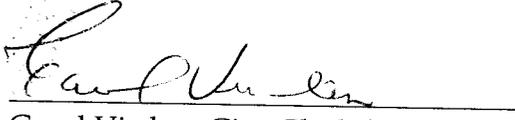
ADJOURNMENT

There being no further business to attend to, Mayor Williams adjourned the meeting at 6:15 p.m.



Gary L. Williams, Mayor

ATTEST:



Carol Virden, City Clerk/Treasurer