

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
JULY 8, 2013
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on July 8, 2013. Mayor Williams called the meeting to order at 5:30 p.m. and asked Officer Rupp 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 Hood
Councilor Perry

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

Also present:

H. John Underwood, City Attorney
Terri Mosley, Finance Director
Chris Rupp, Police Corporal

APPROVAL OF AGENDA

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

Mayor Williams entertained a motion for approval of the agenda.

Councilor Miller moved for approval of the agenda. Seconded by Councilor Hood.

Roll call votes: Councilor Holman, Aye; Councilor Hood, 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.

Mayor Williams entertained a motion for Approval of the Consent Agenda.

Councilor Miller moved to approve the Consent Agenda. Seconded by Councilor Perry.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF JUNE 24, 2013

Councilor Miller moved to approve Minutes of Regular Meeting of June 24, 2013. Seconded by Councilor Perry.

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

APPROVAL OF ACCOUNTS PAYABLES

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

Roll call votes: Councilor Holman, Aye; Councilor Hood, 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. He asked Officer Rupp to come up and tell us what was occurring in our community.

Officer Rupp said I am very pleased to announce that the Ruidoso Downs Police Department in conjunction with surrounding agencies, the state Special Investigations Division, New Mexico State Police, the Lincoln County Sheriff's Office, Lincoln County Drug Enforcement Unit, the Village of Ruidoso have been doing some joint investigations together. During the last two investigations we have been able to one hundred thirty six jewels, 194.4 grams of hallucinogenic mushrooms, 170.735 grams of marijuana, 3.5 grams of wet mushrooms, and 1.5 grams of ecstasy, and \$10,362 dollars in cash. I'm very proud of the police officer and other agencies that participated in these investigations.

There were no Mayor's Comments.

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

Councilor Hood said I want to thank the staff and Mayor on keeping me abreast with information and what was going on. I didn't know we were so dysfunctional but maybe we need to seek us out a City Manager and straighten us out.

Councilor Miller said I received the weekly department report from the Hubbard Museum and I really enjoyed looked at the comments from people who came to the museum this last week. So many of them said they enjoyed it and complimented the exhibits. It was a joy to read it. I've been over there trying to put some flowers in to get ready for the fundraiser.

Mayor Williams stated the next item on the agenda was – Consider Approving Resolution No. 2013-10 Supporting the filing of an Application to the New Mexico Department of Transportation for Funding Assistance for FY 2014-2015.

Patty DeSoto, Lincoln County Transit Manager said each year we are asked to do a Letter of Intent to apply for funds. It's procedural but we apply for the funds with the DOT and tell them what we are planning for those funds. These are the actual numbers that we will seek. We are still trying to find other ways to get funding.

Mayor Williams entertained a motion to approve Resolution No. 2013-10 Supporting the filing of an Application to the New Mexico Department of Transportation for Funding Assistance for FY 2014-2015.

Councilor Hood moved to approve Resolution No. 2013-10 Supporting the filing of an Application to the New Mexico Department of Transportation for Funding assistance for FY 2014-2015. Seconded by Councilor Miller.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action on Entering Into An Independent Contractors Agreement for Consultant Services for the Hubbard Museum of the American West.

H. John Underwood, City Attorney said we put out a request for applications for people who would be interested in a consulting agreement for us to manage and help in the operation of the museum. We received several responses and a committee was appointed to review those responses and we did that. The person that we felt met the qualifications of the request for applications was a gentleman by the name of Ray Pawley. Mr. Pawley and I have chatted to hammer out an agreement to be out consultant for operations and management of the museum. I think he is extremely qualified, in fact over qualified. In a small community such as ours one of the great things that we have because of our beauty and attractions is we have lots of folks who retire here. I put some revisions into the agreement based upon our final negotiations that I would like to discuss with you. As you know an independent contractor is not an employee. They are given certain tasks to do and are paid a lump sum to do those tasks. Exhibit A will tell you the description of services which Mr. Pawley would be providing under this agreement and for a recommendation for budget, recommendation for marketing & advertising, exhibits and educational programming, business development, retail management, employee supervision and training. As a consultant Mr. Pawley agrees to prepare an action plan for review and to discuss approval within ninety days of the date this agreement commences. Under the terms of this agreement it is to commence on Wednesday, July 10, 2013. Such action plan will address ways in which to boost visitor attendance and income of which we all felt like was important, to improve the visitor experience, and to make recommendations for budgetary responsibility and balance. This will be done in the first ninety days. In the next ninety days the consultant has agreed to provide a long range master plan within one hundred eighty days of this agreement. During the first six months of this

contractor's agreement he will provide an action plan in regard to budget, visitor's attendance, visitors experience to build excitement, and a long range plan within the first six months. The compensation that we discussed provides that it will be a twelve month contract for an independent contractor by a public entity. In our discussion today Mr. Pawley and I discussed and I would like to say that his qualifications are considerable but what we have in our budget is not considerable. What I am presenting and recommending to the council this evening is to pay Mr. Pawley the sum of \$3,000.00 per month for a twelve month period provided in subparagraph C on the second page is that at the end of six months that if the City is happy with his work it would be his desire to renegotiate the terms of this contract to a higher rate. Mr. Underwood said I will recommend to the council that at the end of six months because this contract can be terminated by either party on a thirty day notice but at the end of six months the parties should sit down and review and renegotiate the terms of compensation of this contract. Within the proprietary rights we have provided the situation whereby the City would own the documents that Mr. Pawley provides in the long range plan and those things that are important to the museum along with his recommendations. Mr. Pawley has asked that if the City were to publish any portion of the documents that he be credited with the authorship. Mr. Underwood said he would recommend that the City approve this contract and within this agreement it provides a new communication standard to be set up between the museum and the City and that is going to include Mr. Pawley providing reports to this council and being present at one if not both council meetings each month. Part of the requirement is that Mr. Pawley meet with the Museum Advisory Board once a month and the Advisory Board is further on in this agenda.

Mayor Williams entertained a motion to approve – Entering Into An Independent Contractors Agreement for Consultant Services for the Hubbard Museum of the American West.

Councilor Miller moved to approve – Entering Into An Independent Contractors Agreement for Consultant Services for the Hubbard Museum of the American West. Seconded by Councilor Perry.

H. John Underwood, City Attorney introduced Mr. Ray Pawley.

Mr. Ray Pawley said I am looking forward to this but the problem is that it is like coming in during the middle of a movie.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action In Amending the Hubbard Museum Advisory Board to Consist of Five (5) Members Including a Representative From the Hubbard Museum Foundation, Member of the City Council, City Clerk, City Finance Director and Member of the General Public.

H. John Underwood, City Attorney said when we had our meeting of the committee set to select the contractor we had a very dynamic committee and one of the things that we felt was important for the museum was to have a group who are going to be oriented to the museum's

needs. Within that group and because it is a division of the City, the City needs to be involved and we came to the conclusion that the communication between the museum and the City were not all that it could or should be. In order to increase the trust level it would be more beneficial to have a small committee rather than a large committee that would be meeting at least once a month. Then we had the Foundation involved and there is a member of the City Council involved and a member of the general public. I have prepared this memorandum to amend the old Museum Advisory Committee to a committee of five. These recommendations of changes are subject to your approval.

Mayor Williams entertained a motion to approve - Amending the Hubbard Museum Advisory Board to Consist of Five (5) Members Including a Representative From the Hubbard Museum Foundation, Member of the City Council, City Clerk, City Finance Director and Member of the General Public.

Councilor Miller moved to approve - Amending the Hubbard Museum Advisory Board to Consist of Five (5) Members Including a Representative From the Hubbard Museum Foundation, Member of the City Council, City Clerk, City Finance Director and Member of the General Public. Seconded by Councilor Holman.

Mayor Williams asked Mr. Underwood if there were any stipulations for the member of the general public?

H. John Underwood, City Attorney said it's really wide open. Adele mentioned today that it could possibly be someone from the education sector. It's a good recommendation but I wouldn't want to limit it. You may want to consider a member of the general public of the City of Ruidoso Downs and not just any member of the public since the museum is owned and operated by the City of Ruidoso Downs. Obviously it should be someone with great interest and could give great input.

Councilor Holman said something we might want to limit is to a citizen of Ruidoso Downs because they also help support the museum. I would not be for someone from another part of Lincoln County.

Councilor Miller said I agree with Councilor Holman but we do need someone from the Foundation so we can't limit it to Ruidoso Downs because they are our biggest supporters and they have to know what's happening.

H. John Underwood, City Attorney said these limits were just for the member of the general public.

Councilor Hood said why don't we put someone on there from the museum like David Mandel?

Mayor Williams said with that in mind we would have to consider who from the general public it would be.

H. John Underwood, City Attorney said we could come back in two weeks with that.

Councilor Miller said I was on the Advisory Board when Jay Smith was the Director and all of the employees attended the Advisory Board meetings. They had to come to the meetings and let us all know what they were doing so the employees are there at the meetings for their input. We would listen to them and give and take suggestions.

Councilor Holman said Ray Pawley will be at the meetings also so there will be someone there from the museum.

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

Mayor Williams stated the next item on the agenda was - Consider Approving Service Agreement Between the City of Ruidoso Downs and the Village of Ruidoso - Lincoln County Transit.

H. John Underwood, City Attorney said before we move on there was discussion about the member of the general public and who that might be. That was not put into the amendment.

Patty DeSoto, Transit Manager said this agreement is something that has been put together but hasn't been put in place and should have been this last year. This was an oversight on the part of the Village and this is a cleanup item to be on file. This should have been done during the last fiscal year.

Mayor Williams entertained a motion to approve Service Agreement Between the City of Ruidoso Downs and the Village of Ruidoso - Lincoln County Transit.

Councilor Hood moved to approve Service Agreement Between the City of Ruidoso Downs and the Village of Ruidoso - Lincoln County Transit. Seconded by Councilor Miller.

Councilor Miller asked Mr. Underwood if he had reviewed this?

H. John Underwood, City Attorney said he had looked at it.

Councilor Miller asked why we were doing this if it's over for that year? It's not the new one right?

Patty DeSoto, Transit Manager said no.

H. John Underwood, City Attorney said I don't know what the status of Lincoln County Transit is whether we are going on or not going on, funding, not funding.

Carol Virden, City Clerk/Treasurer said this is an oversight be the Village of Ruidoso for the last fiscal year. Generally these service agreements come before the City Council prior to June

or July of every new fiscal year and this is basically a cleanup for the \$28,000 that transit received last fiscal year.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action of Need to Cancel Fall American Photography Show.

David Mandel introduced himself as the Curator of Exhibits.

Mayor Williams said you had a letter sent dated June 15, 2013 specifying that they wouldn't hold the Fall American Photography Show due to lack of personnel and you have made a suggestion in place of that. Would you like to enlighten the Council on that?

David Mandel said we have this every year and it includes photography from 1940 to 1960. What I'm suggesting is that we take all of the negatives that have been scanned and put it in video form.

Councilor Miller said I do like the idea of having local things in the exhibits too.

David Mandel said the number of "Likes" we've had have gone up from 450 to 1500.

Councilor Holman said what I'm understanding here is that we don't have the money or personnel.

David Mandel said that is correct.

Terrie Mosley, Finance Director said the item is budgeted.

Councilor Miller asked if it is necessary to make this action right now? I'm thinking we should table this because we have a new consultant coming on and maybe we should give him a chance to look at this.

Councilor Holman said I was thinking the same thing that we just now have a new museum consultant and maybe you can get with him and the staff and make a decision.

Mayor Williams asked Mr. Pauley to join in the conversation.

Mr. Pauley said it is really hard to pull this event off when you have a delay and put a stop to an event in the middle of a season. I am not familiar with the Fall American Photography Show but will find out more but it is important to have most of the space filled.

Councilor Holman said that is what I said that you guys get together and make that decision and leave the Council out of it.

Councilor Miller moved to amend her earlier motion for the Need to Cancel the Fall American Photography Show until the Council meeting of July 22, 2013.

Carol Virden, City Clerk/Treasurer said I believe Councilor Hood made the first motion so therefore Councilor cannot amend the motion.

Councilor Hood moved to amend his earlier motion for the Need to Cancel the Fall American Photography Show until the Council meeting of July 22, 2013. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Hood, 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 Other Business - Updated Financial Status Report - Hubbard Museum of the American West and Lincoln County Transit.

Terri Mosley, Finance Director said I passed out the financial reports earlier and it is for the entire year. As it stands right now Lincoln County Transit fund is \$40,375.59 in the negative. There are some reimbursements that are outstanding. April and May have been sent off and we are estimating \$43,834.63 outstanding in reimbursement. We did budget because we knew we were going to be short the amount of \$23,658.00 from the General Fund to offset the negative. The museum is currently \$17,766.39 in the negative. They have approximately \$8,061.61 encumbered which we're trying to get in June so there might have to be a small increase of \$25,000.00 still outstanding to be paid.

Mayor Williams said with the current service agreement that just came about today and stating that the Village pays the City the amount of \$28,087.04, will that be presented in your final budget?

Terri Mosley, Finance Director said that was for this year that just closed.

PUBLIC INPUT

(All concerns to be addressed only to the Governing Body as Whole with a 3-Minute time limit)

Mayor Williams stated the next item on the agenda was - Public Input.

Wayne Williams said at the last meeting everybody knows that I come to all of the City Council meetings and I was really proud of the Council at the last meeting. They did some research, they found out what the average was, what was going on, and made some votes that was real common sense. They actually tried to fix something. I was real proud of the City Council at the last meeting. On top of that you guys made a really wise decision today in hiring a man that did not count on his hands the first day. I compliment the City Street Department on the last rain we had. They were Johnny on the Spot. I don't want to ruin your

image of me as being a negative person. First of all there are three or four homes on the side of the mountain here that Planning & Zoning allowed them to build up there. They just dug into the mountain and there were no water run off considerations whatsoever. The slightest little rain and the City has to come down and dig out the ditches, clean up the mud, get the rocks and boulders out of the street. The amount of time and money that the City spends in cleaning up the street they could go up there and build a retaining wall. Another thing the City needs to consider is the next time they blacktop Joe Welch Lane and the ridge down where it intersects the highway that's up hill in all four directions. Water tumbles over it and the first time it rains it floods. Water stands in Mr. Welch's field and looks like black crud because it never goes anywhere. The City needs to do something about this and take into consideration when making these Planning & Zoning decisions. It's a big problem down there. It will save money in the long run. Another thing I wanted to ask is was that a typo on the insurance of \$17,000 because everyone else only pays \$6,000 or \$7,000?

Councilor Miller said it's for a family.

CLOSED SESSION

Discussion subject to the attorney-client privileged pertaining to threatening and/or pending litigation pursuant to § 10-15-1 (H.7) NMSA 1978

Mayor Williams entertained a motion to go into Closed Session for the discussion subject to the attorney-client privileged pertaining to threatening and/or pending litigation pursuant of § 10-15-1 (H.7) NMSA 1978

Councilor Hood moved to go into Closed Session for the discussion subject to the attorney-client privileged pertaining to threatening and/or pending litigation pursuant of § 10-15-1 (H.7) NMSA 1978. Seconded by Councilor Miller.

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

Mayor Williams closed the Regular Meeting at 6:41 p.m. and invited H. John Underwood, City Attorney, Carol Virden, City Clerk, and called for a five-minute recess.

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

Councilor Miller moved to go back into Open Session. Seconded by Councilor Holman.

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

Mayor Williams called the Regular Meeting back to order at 6:52 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 subject to threatening and/or pending litigation pursuant to § 10-15-1 (H.7) NMSA 1978.

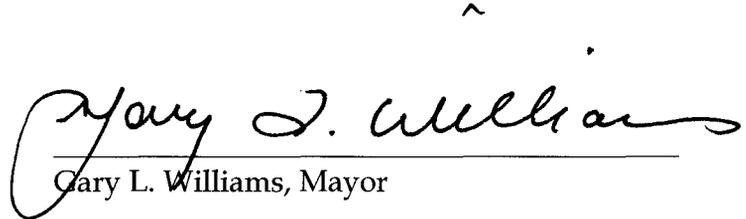
Councilor Holman attested to the fact that the only items discussed in Closed Session were that of discussion subject to threatening and/or pending litigation pursuant to § 10-15-1 (H.7) NMSA 1978 and no action was taken.

Any action taken as a result of the Closed Session will be brought back into Open Session.

ADJOURNMENT

There being no further business to attend to Mayor Williams adjourned the meeting at 6:53 p.m.





Gary L. Williams, Mayor

ATTEST:



Carol Virden, City Clerk/Treasurer