MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
AUGUST 11, 2014
4:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on August 11, 2014. Mayor Williams called the meeting to order at 4:30 p.m. and asked Chief Rupp to lead the Pledge of Allegiance. Mayor Williams asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Miller
Councilor Morales
Councilor Perry
Councilor Hood (via teleconference)

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

Also present:

H. John Underwood, City Attorney
Christopher Rupp, Police Chief
Mary Castaneda, Finance Director
Steve Dunigan, Planning & Zoning Director
Dale Graham, Project Manager

APPROVAL OF AGENDA

Mayor Williams stated the next item on the agenda was Approval of Agenda. I am requesting Items A, B, and C under Unfinished Business to be removed from today's agenda due to lack of information provided to Council and postpone to the August 25, 2014 meeting.

Mayor Williams entertained a motion to approve the agenda.

Councilor Morales moved to approve the removal of Items A, B, and C under Unfinished Business on today's agenda. Seconded by Councilor Miller.

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

APPROVAL OF CONSENT AGENDA
Mayor Williams stated the 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 Hood.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF JULY 28, 2014
Councilor Miller moved to approve Minutes of the Regular Meeting of July 28, 2014. Seconded by Councilor Hood.

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

APPROVAL OF ACCOUNTS PAYABLES
Councilor Miller moved to approve Accounts Payables. Seconded by Councilor Hood.

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

UNFINISHED BUSINESS
Mayor Williams said 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 welcome back the Chief and City Attorney John Underwood from their extended vacation. I would also like to thank the Chief for this letter that came from Mr. Chris Gosgriff. Executive Director of the Officer Downs Memorial Page, Inc. He read from the letter as follows:

> I would like to thank you and all the members of your department, and neighboring agencies, who participated in the Cold Water Challenge on July 12th. Your inclusion of community members was a great way to honor fallen officers in New Mexico and throughout the country. Please pass on my more sincere gratitude to everyone who participated.

Mayor Williams also thanked those who came out over the weekend and participated in the Clean & Sober Run in All American Park.

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

There were no Councilor's Comments.

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Relay for Life Committee - Approving Use of All American Park - Relay for Life - August 23, 2014.

Christina from Ruidoso Ford Lincoln introduced herself and Elisa Sedillo. She said we are having the Relay for Life at All American Park on August 23rd from 11:00 a.m. to midnight. We will have several booths set up, some food and different things going on. We at Ruidoso Ford Lincoln are going to do "Driven to Give" and we will have about four Lincolns there. They will have test drives and for every test drive we will give $20. We are hoping to get a permit to set up.

Mayor Williams said it's a great cause and to come in tomorrow morning and get with staff on that.

Mayor Williams entertained a motion to approve - Relay for Life Committee - Relay for Life - August 23, 2014 in All American Park.

Councilor Hood move to approve - Relay for Life Committee - Relay for Life - August 23, 2014 in All American Park. Seconded by Councilor Miller.

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

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Resolution No. 2014-15 Adoption of Required Community Development Block Grant Policies & Certifications

- Citizens Participation Plan
- Fair Housing Plan
- Residential Anti-Displacement & Relocation Assistance Plan
- Section 3 Plan
- Procurement Code

Mayor Williams said I'll just give you a couple of whereas.

> Whereas, the municipalities and other entities that accept Community Development Block Grant funds must adopt certain mandated federal policies
>
> And

Whereas, the City of Ruidoso Downs wishes to ensure compliance with federal guidelines by adopting the following required policies and certifications.

Mayor Williams said as stated on the agenda the plans are listed. By following these guidelines and policies the City is able to apply for CDBG grant money from the federal government which we have done in the past. We have just received funding that we will be utilizing for a project in Agua Fria which is the water system improvement plan.

Mayor Williams entertained a motion to approve Resolution No. 2014-15 Adoption of Required Community Development block Grant Policies & Certifications.

Councilor Miller moved to approve Resolution No. 2014-2015 Adoption of Required Community Development Block Grant Policies & Certifications. Seconded by Councilor Hood.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Resolution No. 2014-16 Adopting Regulations Regarding the Procurement Process of the Municipality Pursuant to the Requirements of the Procurement Code (Being Section 13-1-28 to 13-1-199 NMSA 1978, As Amended) and Public Works Contracts (Being Sections 13-4-1 to 13-4-42 NMSA 1978, As Amended).

Mayor Williams said this resolution assures that we are following the Procurement Code whenever we are bidding out a project and the funding of the project is utilized properly.

Mayor Williams entertained a motion to approve - Resolution No. 2014-16 Adopting Regulations Regarding the Procurement Process of the Municipality Pursuant to the Requirements of the Procurement Code (Being Section 13-1-28 to 13-1-199 NMSA 1978, As Amended) and Public Works Contracts (Being Sections 13-4-1 to 13-4-42 NMSA 1978, As Amended).

Councilor Miller moved to approve - Resolution No. 2014-16 Adopting Regulations Regarding the Procurement Process of the Municipality Pursuant to the Requirements of the Procurement Code (Being Section 13-1-28 to 13-1-199 NMSA 1978, As Amended) and Public Works Contracts (Being Sections 13-4-1 to 13-4-42 NMSA 1978, As Amended). Seconded by Councilor Morales.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Agenda Briefing Memorandum – P & Z Department – Scheduling Public Hearing for

Amending Language to Chapter 155 Titled "Zoning" Section 155.078 "Non-Conforming Uses and Structures" Subsection E.

Steve Dunigan, Planning & Zoning Director said I'm here tonight to present the language that was approved and the structure is different on the 90-day gap issue. If you have any thoughts or ideas I would like to hear them otherwise it has been approved again by P & Z.

Mayor Williams said I'd like to open it to Council.

H. John Underwood, City Attorney said to Steve Dunigan that he may want to explain why you put that certain provision in there and what it's designed to cover and accomplish.

Steve Dunigan said the original statement in Section E really ties to the fact that if you have a lawful non-conforming use that existed at the time that the zoning took affect and you happen to then have a break or a gap in that use of 90-days or more then you have lost the non-conforming use. An example would certainly be horses. What I've done is write in here a change to that and I'll read it for record:

> Whenever a lawful, non-conforming use of a building or structure or land that discontinues for a period that exceeds 24-months shall be required to apply for a conditional use permit approval from the Planning & Zoning Commission in order to resume a non-conforming use subject to the requirements of 155.027 which is a conditional use permit section of our existing ordinance. The applicant must be able to demonstrate that a verifiable, non-conforming use previously existed on their property along with the ending date of the original use. An applicant must also provide a site plan that shows the existing structures zoned in the area of the property that will be used for the continuation of the previous non-conforming use.

I think the 24-months is the key. If you have a use that has continued since we adopted zoning and then you have a break for 24-months or longer and you felt the historical use of the structure or the type of use that is only seasonal in nature. This should give most of the property owners the ability to come back with that non-conforming use without worrying about losing it because 90-days is not that long. If that 24-months is exceeded then what we are saying basically is to come before Planning & Zoning Commission and apply for a conditional use permit. If this language is acceptable then we will try and tie this conditional use to the district such as R1 and AR1. They need to state in the conditional use Section of those districts the non-conforming use and the nature of why they are applying. That language would be added to those two sections.

Councilor Miller asked if the 24-months was in place of the 90-day thing? What I understand that you said is that if the 24-months is exceeded they can come back and prove that is what it was used for as the non-conforming.

Steve Dunigan said if someone has the use of non-conforming for a while because at this time our zoning is a factor say if a sale of the property and new ownership and there is a gap of over two years they would be able to come and ask for a conditional use permit to continue that previous non-conforming use. The burden would be to show the historical use of structures, how long ago, etc.

Councilor Miller said their biggest argument was that when they bought that property it had barns and corrals and that was the reason they bought it and to use it as that. I agree with them when you buy what you see you think that's what the use is. To me it would still be a little restrictive that they would have to come get a permit.

Steve Dunigan said it would only ever apply if the use of that property had that gap.

H. John Underwood, City Attorney said this is a very narrow situation. When the Council or the City went to re-zone or zoned all of the property in 2001 it was to land in the zone so there are still some horse problems on residential land. The counter argument is if someone came into Ruidoso Downs and bought property that is zoned residential and in our residential zoning horses aren't allowed then you can say I bought this property based on that it was residential and now you are saying they can have horses.

Councilor Miller asked Steve Dunigan how they would demonstrate to him the non-conforming use?

Steve Dunigan said we would have to rely on the owner's feedback and something they could probably put on paper. I don't know how else we would know. Do you have pictures? Do you have an owner's statement? We would have to at least figure out some kind of history. The more for the application the stronger the case.

Mayor Williams entertained a motion to approve – Agenda Briefing Memorandum – P & Z Department – Scheduling Public Hearing for Amending Language to Chapter 155 Titled "Zoning" Section 155.078 "Non-Conforming Uses and Structures" Subsection E.

Councilor Morales moved to approve - Agenda Briefing Memorandum – P & Z Department – Scheduling Public Hearing for Amending Language to Chapter 155 Titled "Zoning" Section 155.078 "Non-Conforming Uses and Structures" Subsection E. Seconded by Councilor Miller.

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

OTHER BUSINESS
(Items are for discussion only – no action will be taken)

Mayor Williams said the next item on the agenda was - Updated Financial Status Reports - Hubbard Museum of the American West and Lincoln County Transit.

Mary Castaneda, Finance Director said Lincoln County Transit had a beginning cash balance of $18,744.30. For July we had revenues of $1,371.00 and expenditures of $4,812.86 leaving an ending cash balance of $15,302.44. The museum fund had a beginning cash balance of $53,232.01. Revenues for July were $23,547.19. Expenditures were $28,947.87 leaving an ending cash balance of $47,831.33. These figures are tentative because they are not verified yet.

Mayor Williams stated the next item on the agenda was - Update - 2014 Community Development Block Grant (CDBG) Allocation.

Dale Graham, Project Manager said I'm proud to tell you that last week we received confirmation that we received $475,000 to begin the process of replacing the sewer and water system in Agua Fria.

Mayor Williams stated the next item on the agenda was - Update Agua Fria SD Wastewater Collection System Expansion Phase 1 - (STB, 2781-CIF, 2975-CIF).

Dale Graham, Project Manager said last week we received confirmation from the New Mexico Environment Department that they approved our plans and our bidding paperwork and to begin the process for Phase 1. We will have a pre-bid showing on August 21, 2014 at 1:30 p.m. here and we will have the official bid opening on September 2nd. We will finally get some sewer started in Agua Fria. We've only been waiting about thirteen years for that.

PUBLIC INPUT

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

Wayne Williams said since Cleatus has been ill I didn't know who to go to so I decided to bring it to you. At the end of my block where they put in that new doublewide and tied on to the utilities there is a sinkhole there. A couple of weeks ago I nearly ran off it. It's not real, real deep yet but there's a sign there from the gas company and I know they tied or I don't know it they tied into the water or sewer there or what or if it's a leak that's causing the ground to wash away but the sinkhole is getting deeper. I brought it to you so you could call the companies. If it's a leak it could be a problem.

Mayor Williams asked Dale Graham what he thought about that?

Dale Graham, Project Manager said I did not know that but we'll check it out.

Kathy Kolt said I think we're headed in the right direction as far as the zoning but one thing I'd like to see clarified while we're at this is if a piece of property is changed to have a

variance so that you can have a horse on it will it run with the land? Because, if you try and sell a piece of property and tell a new owner maybe you can have a horse and maybe you can't and can you jump through some hoops then no one is going to buy your land. It will devalue it by 50%. So, can you address that?

Mayor Williams said if you're going to have a question like that I would rather you come in and address that with Mr. Dunigan.

Kathy Kolt said another thing I want to bring up is when this building was done the people that owned the property were not contacted. There are people that are older and used to have horses and I hate to see their land devalued.

ADJOURNMENT

There being no further business to Mayor Williams entertained a motion to adjourn.

Councilor Morales moved to adjourn. Seconded by Councilor Miller. The meeting adjourned at 5:00 p.m.

CITY OF RUIDOSO DOWNS CORPORATE SEAL NEW MEXICO

Gary L. Williams, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer