

**CITY OF RUIDOSO DOWNS
GOVERNING BODY, REGULAR MEETING
123 DOWNS DRIVE, RUIDOSO DOWNS, NEW MEXICO 88346
NOVEMBER 13, 2023**

The City of Ruidoso Downs Council met in a regular session on Monday, November 13, 2023. Mayor Holman called the regular meeting to order at 2:00 p.m. and asked Councilor Miller to lead in the Pledge of Allegiance.

ROLL CALL

Present: Councilor Walker, Councilor Lundquist, Councilor Miller, Councilor Lacewell

Municipal Employees Present:

John Underwood, City Attorney
Alejandra L. Giron, City Clerk/Treasurer
Selena Chavez, Deputy City Clerk
Joe Commander, Police Chief
Joe Jarvis, Public Works Director
Jennet Recendez, Planning Services Director
Austin Russell, Fire Department
Justin Sanchez, Fire Department

Guests Present: 15

Municipal Employees Present by Zoom:

Mary Castaneda, Finance Director

Guest Speakers Present:

Victor Montes, Toys for Tots

APPROVAL OF AGENDA

Councilor Lundquist moved to approve the agenda as presented. Councilor Miller seconded and upon a roll call vote of all voting "aye" the motion passed.

APPROVAL OF CONSENT AGENDA

(All matters listed under Item 5 will be enacted by one motion.)

- A. *Approval of the First Quarter Financial Report for Fiscal Year 2024 (Quarter ending September 30, 2023).
- B. *Approval of Change Order A between the City of Ruidoso Downs and AAA FirePro.
- C. *Approval of Change Order D1 between the City of Ruidoso Downs and AAA FirePro.
- D. *APPROVAL OF GOVERNING BODY MINUTES
*October 23, 2023, Regular Meeting Minutes



Councilor Lacewell moved to approve the Consent Agenda as presented. Councilor Miller seconded and upon a roll call vote of all voting “aye” the motion passed.

PUBLIC INPUT

No public input.

COUNCILORS COMMENTS

Councilor Lacewell made comments.

Councilor Miller made comments.

MAYORS COMMENTS

Mayor Holman made comments.

UNFINISHED BUSINESS

A. Discussion and Possible Action on Approval of Funds for Toys for Tots Lincoln County/Mescalero a Non-Profit Organization Presentation by Victor Montes.

Victor Montes presented on the Toys for Tots Lincoln County/Mescalero.

The City Attorney read his legal opinion (See Attachment A) and suggested the Council not approve this expenditure based on the Anti-donation Clause and the Lodgers Tax Act.

Councilor Lundquist moved to approve Toys for Tots Lincoln County/Mescalero. Councilor Walker seconded and upon a roll call vote of all voting “nay” the motion failed.

NEW BUSINESS

A. Discussion and Possible Action on Approval of Change Order No. 1 between the City of Ruidoso Downs and AAA FirePro.

Austin Russell presented Change Order No. 1 and requested for approval.

Councilor Miller moved to approve Change Order No. 1. Councilor Lundquist seconded and upon a roll call vote of all voting “aye” the motion passed.

B. Discussion and Possible Action on Approval of Change Order No. 2 between the City of Ruidoso Downs and AAA FirePro.

Austin Russell presented Change Order No. 2 and requested for approval.



Councilor Miller moved to approve Change Order No. 2. Councilor Walker seconded and upon a roll call vote of all voting “aye” the motion passed.

C. Discussion and Possible Action on Approval of Change Order No. 3 between the City of Ruidoso Downs and AAA FirePro.

Austin Russell presented Change Order No. 3 and requested for approval.

Councilor Lundquist moved to approve Change Order No. 3. Councilor Miller seconded and upon a roll call vote of all voting “aye” the motion passed.

D. Discussion and Possible Action on Approval of MOU between City of Ruidoso Downs and Region 9 Education Cooperative.

The Finance Director presented the MOU and requested for approval.

Councilor Miller moved to approve Change Order No. 2. Councilor Lacewell seconded and upon a roll call vote of all voting “aye” the motion passed.

E. Discussion and Possible Action on Hire Richard Catling for Position Of Maintenance Tech I for the Public Works Department.

The Public Works Director recommended the hire of Richard Catlin and requested for approval.

Councilor Lundquist moved to approve the Hire of Richard Catling for Position Of Maintenance Tech I for the Public Works Department. Councilor Walker seconded and upon a roll call vote of all voting “aye” the motion passed.

F. Discussion and Possible Action on Approval of CRI CPAs And Advisors Engagement Letter for Annual Audit Fiscal Year 2023.

The Finance Director presented the of CRI CPAs And Advisors Engagement Letter and requested for approval

Councilor Lundquist moved to approve CRI CPAs And Advisors Engagement Letter for Annual Audit Fiscal Year 2023. Councilor Walker seconded and upon a roll call vote of all voting “aye” the motion passed.

ADJOURNMENT

There being no further business to come before the Governing Body, Mayor Holman adjourned the regular meeting at 2:23 p.m.



MINUTES ARE DRAFT UNTIL APPROVED ON:

Passed and Approved on this 27th day of November 2023.

APPROVED:

Dean Holman

Dean Holman, Mayor



Alejandra L. Giron

Alejandra L. Giron, MMC
City Clerk/Treasurer



ATTACHMENT A
H. John Underwood, Ltd

A T T O R N E Y S A T L A W

H. John Underwood

November 13, 2023

Mayor Holman
Councilor Walker
Councilor Miller
Councilor Lundquist
Councilor Lacewell

Re: Lodgers Tax Funds for Toys for Tots

Dear Mayor & Councilors:

Regarding Agenda Item 9A, I have reviewed the Minutes of the Lodgers Tax Meeting of November 9, 2023, as well as the statute of authority providing for the use of Lodgers Tax §3-38-21. It generally provides that tax proceeds may only be used for construction or acquisition of tourist related facilities or tourist related transportation systems, advertising or promoting tourist related facilities, attracting and events or promote police, fire and sanitation services for tourist related facilities. (See relevant statute attached).

Therefore, as much as Toys for Tots is a valuable program, benefitting the children of Ruidoso Downs it is not eligible for lodgers tax proceeds and use of the general fund to provide funding would violate the Anti-Donation Clause (Art. 9 §14) of the New Mexico State Constitution which prohibits the State or municipality from directly or indirectly making any donation to or in aid of any person, association or public or private corporation.

Yours very truly,


H. John Underwood

cc: Ally Giron
Selena Chavez
file