

**CITY OF RUIDOSO DOWNS
GOVERNING BODY, REGULAR MEETING
123 DOWNS DRIVE, RUIDOSO DOWNS, NEW MEXICO 88346
MARCH 25, 2024**

The City of Ruidoso Downs Council met in a regular session on Monday, March 25, 2024. Mayor Holman called the regular meeting to order at 5:30 p.m. and asked Councilor Miller to lead in the Pledge of Allegiance.

ROLL CALL

Present: Councilor Proctor, Councilor Baber, Councilor Miller, Councilor Lacewell

Meeting Participants:

John Underwood, City Attorney
Alejandra L. Giron, City Clerk/Treasurer
Lori Plant, Municipal Judge
Joey Jarvis, Public Works Director
Joe Commander, Police Chief
Robert Knight, Deputy Police Chief
Jennet Recendez, Planning Services Director
Heath Keck, Fire Chief

Meeting Participants via Phone:

Mary Castaneda, Finance Director

APPROVAL OF AGENDA

Councilor Lacewell moved to approve the agenda with the removal of item A and item C under New Business. Councilor Baber 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 Fiscal Year 2025 Budget Process.
- B. *Approval of Personnel Recommendation to Hire Miguel Gallegos-Flores for the Position of Street Maintenance Worker for the Public Works Department.
- C. *APPROVAL OF GOVERNING BODY MINUTES
 - *March 11, 2024, Workshop Meeting Minutes
 - *February 26, 2024, Regular Meeting Minutes
 - *February 12, 2024, Regular Meeting Minutes
 - *January 22, 2024, Regular Meeting Minutes
 - *January 8, 2024, Regular Meeting Minutes
 - *December 11, 2023, Regular Meeting Minutes



Councilor Lacewell moved to approve consent agenda with the removal of the December 11, 2023, Regular Meeting Minutes and the February 26, 2024, Regular Meeting Minutes for discussion. Councilor Miller seconded and upon a roll call vote of all voting “aye” the motion passed.

PUBLIC INPUT

Bonnie Richardson made comments.

COUNCILORS COMMENTS

Councilor Lacewell moved to have her comments be verbatim. Councilor Proctor seconded and upon a roll call vote of all voting “aye” the motion passed.

Councilor Lacewell stated, See Exhibit A.

Councilor Miller made comments.

MAYORS COMMENTS

Mayor Holman made comments.

A. Monthly Reports and Presentations

The Finance Director stood for questions on the financial reports that were provided in the packet for the month of February.

The Public Works Director presented on the operations of the Public Works Department for the month of February.

The Deputy Police Chief presented on the operations of the Police Department for the month of February.

The Planning Services Director presented on the operations of the Planning & Zoning Department for the month of February.

The Fire Chief presented on the operations of the Fire Department for the month of February.

The Municipal Judge presented on the operations of the Court for the month of February.

PUBLIC HEARING

A. Adoption of Resolution 2024-03, a Resolution of the City of Ruidoso Downs adopting the 2023 Lincoln County Multi- Jurisdictional Hazard Mitigation Plan Update.



Mayor Holman stated, "And that would be our."

Councilor Proctor stated, "Hazard Mitigation plan."

Mayor Holman stated, "John, can you help me out on this. I noticed that was a public hearing."

The City Attorney stated, "What happened with the committee?"

Councilor Baber stated, "We decided not to have a committee. And we were going to call Wendy and see what was happening. And everything has been approved in this book. Every other county has approved it. This is the only one that hasn't."

The City Attorney stated, "Right."

Councilor Baber stated, "In order to make them changes, you got to do it on the next ref because if you do it now then it's going to have to go back to FEMA. You know the other one. Homeland security, and then it would have to be passed through everybody else again. So, they said the best thing they can do is pass this. If you want to make changes, put them in the next one."

Mayor Holman stated, "Ok. Yeah, I remember you got railroaded. I mean you volunteered to do that for me."

Councilor Baber stated, "But that."

(inaudible)

The City Attorney stated, "But, I think that accurately brings it up to speed for me. So, as far as I'm concerned, we're ready for a motion."

The City Clerk stated, "You don't want to open it up to the Public?"

The City Attorney stated, "Do you want to have a public hearing, sure."

The City Clerk stated, "That's what they requested for at the last."

The City Attorney stated, "I apologize."

Councilor Baber stated, "Did we not have it at the Workshop?"

(Inaudible)



Councilor Proctor stated, "On that there. Councilor Lacewell used to work for the shop, the government department he worked for."

Councilor Lacewell stated, "BLM."

Councilor Proctor stated, "BLM, and he was familiar with a lot of this stuff. So, I leave with you, the one that I had of the two, now three that I've got but anyway. He went in and found a lot of areas that needed to be added to it. So, what I would like to suggest is that we can auxiliary that into our safety program, have it written up, have it implemented. Then when this HMP comes around again, we can put that in it and we'll be covered all the way around."

The hearing was opened to the Public at 6:34 p.m.

The City Attorney stated, "Can you say your name again for the record?"

Bonnie Richardson stated, "Bonnie Richardson. I have a recent mail from Ruidoso, the Village of Ruidoso to Ruidoso landowners and it says tools management standard 42-80 and it has five, five things on here about fuel management to reduce the dangers of fire. And so, I would like for the council to have this to see where, at least we're on board with Ruidoso. And, what they're saying is that they raised the standards for fuel management in their area which lowered our home owner's insurance cost. And, boy, we're all for that because we've seen those interest costs spiraled on this year."

Councilor Proctor stated, "Well, that's because of all the forest fires Bonnie, up in northern New Mexico, the ones that we've had here, the ones that had that control burn behind the banks of the ski run in that whole area. So, I know what you're talking about but its going to be awhile before we (inaudible)."

Bonnie Richardson stated, "So, if a fire ever starts that side of Walmart, we're sunk, (inaudible) because the wind blows this way. And, I have copies for everybody."

Mayor Holman stated, "What Bonnie is referring to is the southwest coming from the direction of the reservation."

Beth Miller stated, "Beth Miller, resident of Ruidoso Downs for twenty-eight (28) years. What I read through that, whatever it was three hundred and sixty-four pages or whatever, it was but what I got out of it was that you might want to consider. They mandate that you cut certain trees and there are some people who have feelings about being told what to do on their property because like sometimes a tree will provide shade for afternoon sun or it may be, you know. You might want to just consider that as you're looking at what you're going to pass or what you're not going to pass. And, they actually in their statements, concluded in this they will fine you, fine



them until they become compliant. So, you may not wish to become compliant. Something to consider.”

Councilor Miller stated, “I asked Wendy, that presented it to us, the migration plan, and she said that’s something your council would have to do. Ruidoso has done that, they make people. My friend Marilyn she bought that house. They walked around and marked which trees that she needed to get out of there, out of her yard, but that comes from this council. That’s not part of the mitigation plan.”

Beth Miller stated, “The WWI, the Wildland Interface?”

Councilor Miller stated, “No, our council, right here will have to make that.”

Beth Miller stated, “If you adopt it though in its totality then it has that kind. It has the ability to bind you, just saying. I don’t know if you.”

(inaudible)

Councilor Baber stated, “They’re not going to come in city to city and be doing that to everyone.”

Councilor Miller stated, “No, they won’t. It’s a very costly thing.”

Councilor Baber stated, “They’re just trying to tell you clean up your yard and it won’t burn up.”

Beth Miller stated, “But if they have that capability though W.G., can, I believe. John, what do you think?”

The City Attorney stated, “My, I also would comingle with what she told me. She said, unless there is local enforcement, there’s no problem.”

Councilor Baber stated, “Yeah.”

Councilor Miller stated, “We would have to enforce that.”

Beth Miller stated, “Should you make a clause or an amendment?”

Councilor Baber stated, “In five years.”

Beth Miller stated, “Ok.”



Councilor Baber stated, “No, I’m serious. They redo it every five years.”

Beth Miller stated, “Then I’ll do my best. Can you make a clause within this government?”

The City Attorney stated, “Not unless you take it back to every municipality and county that.”

Beth Miller stated, “So, you have to go by it.”

The City Attorney stated, “Yes.”

Councilor Baber stated, “Yeah, but your local authorities are the ones that are going to be.”

The Fire Chief stated, “No, they’re just suggestions is what they’re saying. They want the city to give them, to give the city the option to adopt. So, it’s not that they can come in.”

Beth Miller stated, “Have you read it?”

The Fire Chief stated, “Yes, I’ve read it. So, basically, it’s just a suggestion that the city wants to adopt that ordinance, then they can make it an ordinance and then enforce it. Otherwise, it’s just a suggestion at that point. There’s nothing. There’s no enforcement on it or anything of that matter.”

Councilor Baber stated, “They’re not going to come in and cut all them trees down.”

The Fire Chief stated, “No.”

Beth Miller stated, “No, but they can fine you is what I’m saying.”

Councilor Baber stated, “No, they’re not.”

Beth Miller stated, “All the people are, ok, thank you Joey.”

The Public Works Director stated, “All the people do that right now.”

Beth Miller stated, “Right.”

Bonnie Richardson stated. “I’m sorry, at fifteen hundred dollars to cut down a tree, this is something that needs a lot of thought. Also, these people who rake up pine needles and branches and pile them outside their yard, we’ve got to have better garbage pickup.”



Councilor Baber stated, “If they will put them where, I’ve done. I’m here at all these meetings and I’ve got pictures. If people would put that stuff where it’s supposed to go, they will be glad to pick it up but they. I’ve got pictures where they’ve got a red lined mark right there ‘put it there’ and you see them putting it down there. They’re not going to pick it up like that.”

Mayor Holman stated, “And what happens so often and I’m glad that you’ve been working on this. They’ll stack it too close to a fence and so that grapple that they have, they’re not going to pick that up if they think they’re going to damage that fence. And, you tell people you know, not to do that. And, most of them don’t know. It doesn’t get picked up because it’s too close to a fence or something that would cause the Greentree Solid Waste a problem. If they damage something, so they just don’t pick it up. It needs to be, as the Councilor said, it needs to be where their specifications otherwise they’re not going to pick it up.”

Councilor Baber stated, “And the other good news is hoss back there got him a brand-new grappling truck.”

Mayor Holman stated, “The question is, is hoss going to use it.”

Councilor Baber stated, “I bet hoss will find somebody.”

The Public Works Director stated, “Code Enforcement can do their part and get all these people, then I can come behind and clean up the mess. Me and Jim have a pretty good plan started. Anybody of the residents that can call Greentree and they will tell you where to put your brush and they’ll also go out there and mark it on the road.”

The hearing was closed to the Public at 6:43 p.m.

Councilor Proctor moved to adopt Resolution 2024-03. Councilor Baber seconded and upon a roll call vote of all voting “aye” the motion passed.

UNFINISHED BUSINESS

A. Determination of Sara Sorenson, on behalf of herself, Will Sorenson, Charlie Sorenson, and Mike Sorenson Appeal of The Planning Commission Approval of P & Z Case 2023-11, Approving Conditional Use to allow for a Recreational Vehicle Park at the Property located in a C-2 Zoning District.

The City Attorney stated, “So, we had, I appreciate very much whoever did this verbatim of the last hearing on, what was it, February the twenty-sixth of last month. The council requested that we postpone the decision until today’s date. Which is fine. You’ll probably note, in reviewing the decision to be render today. No sooner than the fifteen (15) days from the day of the public notice the City Council shall hear the appeal and render a decision within forty-five (45) days.



So, it can't be postponed for an additional period past the fifteenth day. It has to be done at a regular council meeting. So, in making your decision, the City Council shall study the record of the action of the appeal. If it was postponed, the City Council shall make a decision of the appeal at the next regularly scheduled meeting. And, the things that the City Council may do is reverse the order. That would be the order of the Commission granting the conditional use of the RV park. To side in favor of the appellant. Which in this case would actually be the same thing and make any change in any order or primary decision or determination. And, the only change that the condition of the Commission put on it was the five (5) miles an hour speed limit while using that particular easement. And that the easement, so, I think it's been debated and discussed and discussed and rediscussed. And, papers have been presented by both the city, the appellant, and the applicants attorneys, Council has received all of those. I just need to tell you all, if we can't make a decision by majority vote then the decision of the planning commission stands. So, the city, on behalf of the City Council shall issue a written notice of this decision to all concerned. So, after you all make this decision, Alejandra will be tasked with writing this decision out. And in this decision, I would request that whoever makes the motion, that in their motion, you state the facts as, that the decision has been based on. It says, 'the facts of the matter is determined by the City Council, the reasons for it's decision, and any conditions applied to the decision.' So, those are the things that you may make a simple motion and be supplemented by an additional motion. If you prefer of stating the reasons for the decision and so forth and so on, but I don't. The time for debate has ended and of course the decision of this council is subject to appeal to the district court by whoever feels aggrieved by this decision. So, it just allows a due process to take place."

Councilor Baber stated, "So, if they don't like our decision, they can just go to court?"

The City Attorney stated, "That's correct."

Councilor Miller moved to uphold the Planning Commission's decision. Councilor Proctor seconded and upon a roll call vote of the following, the motion failed. Aye: Councilor Miller. Nay: Councilor Lacewell, Councilor Proctor, Councilor Baber.

The City Attorney stated, "Do we have another motion?"

Mayor Holman stated, "Doesn't seem to be one."

Councilor Lacewell stated, "And what would the purpose of that be?"

The City Attorney stated, "That would be to reverse the order. To deny the order, but I appreciate the fact that a positive motion was made, but what I've got to have is, I have got to have reasons made of the record for you denying, for the decision."



Councilor Proctor stated, “Oh ok. I’ve got that right there.”

Councilor Baber stated, “So, we didn’t just kill it then?”

The City Attorney stated, “You killed it but, but in this. Normally, but what the ordinance says is that ‘the city council by majority vote may reverse any order the side in favor of the appellant or make any change in the order.’ So, as I read that, I was basically implying the order that was entered by the Planning Commission. And so, what I’m asking next is for a motion stating you’re the reasons for your denial of that motion. What facts you have to, what you based your decision to deny that, upholding that Planning Commission order on.”

Councilor Proctor moved to reverse the Planning Commission’s decision and stated, “Ok, my reason is city statute 155-08-1, Item 1, General Requirements. Access Minimum area recreational vehicle parks shall abut and have. The word, ‘shall’ is mandatory. Abut and have access from major arterial streets. Access. It doesn’t say anything anywhere in the other seven (7) items in this general request or requirements that says nothing about easements at all. So, the reason I’m going that way with it. It takes somebody that’s got more savvy than what we have right here. To battle this out, sort of speak.”

The City Attorney stated, “So, you’re basing it upon.”

Councilor Proctor stated, “The city ordinance right here on what I just gave.”

The City Attorney stated, “155 goes 108-1, requiring abut to a major arterial road.”

Councilor Proctor stated, “Yup.”

Councilor Baber seconded and upon a roll call vote of the following, the motion passed. Aye: Councilor Lacewell, Councilor Proctor, Councilor Baber. Nay: Councilor Miller.

B. Discussion and Possible Action on approval of a Pay Raise for all Police Department Personnel After Restructuring of Police Department Personnel.

Councilor Proctor moved to approve the Pay Raise for Officers Malone, Officer Becker, and Officer Hankshaw and the two (2) vacant officer positions. Councilor Lacewell seconded and upon a roll call vote of all voting “aye” the motion passed.

Discussion on the December 11, 2023, Regular Meeting Minutes.



Councilor Lacewell moved to approve the December 11, 2023 Regular Meeting Minutes. Councilor Proctor seconded and upon a roll call vote of the following, the motion passed. Nay: Councilor Baber. Aye: Councilor Miller, Councilor Proctor, Councilor Lacewell.

Discussion on the February 26, 2024, Regular Meeting Minutes.

Councilor Lacewell moved to have the February 26, 2024, Regular Meeting Minutes be rewritten and corrected specifically to Mr. Lewicki's statement about the corrupt government. Councilor Miller seconded and upon a roll call vote of all voting "aye" the motion passed.

NEW BUSINESS

B. Discussion and Possible Action on approval of Submittal of the NMDFA Grant Application for Law Enforcement Protection Funds.

Councilor Proctor moved to approve the Submittal of the NMDFA Grant Application for Law Enforcement Protection Funds. Councilor Lacewell seconded and upon a roll call vote of all voting "aye" the motion passed.

D. Discussion Possible Action on the Appointment of Mayor Pro-Tem, Judy Miller to the Consolidated Joint Dispatch Board.

Councilor Proctor moved to approve the Appointment of Mayor Pro-Tem, Judy Miller to the Consolidated Joint Dispatch Board. Councilor Baber seconded and upon a roll call vote of all voting "aye" the motion passed.

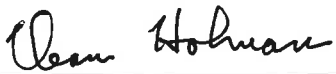
ADJOURNMENT

There being no further business to come before the Governing Body, Mayor Holman adjourned the regular meeting at 7:14 p.m.

MINUTES ARE DRAFT UNTIL APPROVED ON:


Passed and Approved on this 22nd day of April 2024.

APPROVED:



Dean Holman, Mayor

ATTEST:



Alejandra L. Giron, MMC
City Clerk/Treasurer



EXHIBIT A

(City Clerk: Please see that my comments are verbatim and included "for the record" in the minutes for this meeting. March 25, 2024)

To the Citizens of Ruidoso Downs:

Thank you for attending today.

Here a summary of the most important issues we've dealt this year:

On January 8, 2024, this City Council did not confirm four individuals working for the city who are being paid by the citizens of Ruidoso Downs. In effect, those individuals were fired. Collectively you (and we) are paying over \$26,000 a month in wages just to these 4 people. If we were paying the appropriate employees and appointed officials it would reduce that wasted amount of money by nearly \$10,000 a month.

The mayor intentionally failed to comply with the laws of New Mexico when he failed to present four names to replace those four people at the January 22nd city council meeting. NM Statute § 3-11-5 (A) says in part, "If the governing body fails to confirm any person as an appointive official or employee of the municipality, the mayor at the next regular meeting of the governing body **shall** submit the name of another person to fill the appointed office or to be employed by the municipality.

By knowingly and willfully breaking this law, he is costing the city of Ruidoso Downs nearly \$10,000 a month, and this is the 3rd month of his premeditated and willful noncompliance. (Nearly \$30,000)

NM Statute § 3-11-4 – says that the mayor is the chief executive officer and SHALL:
C. perform other duties, compatible with his office, which the governing body may require.
*The Governing Body has directed and we require Mayor Holman to obey NM Statute § 3-11-5, yet he refuses to do it. Now he is breaking more than 2 state laws.

In the NM Constitution article III § 1 it says:
"The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments, shall exercise any powers properly belonging to either of the others..."

With total agenda control, only this mayor can determine what is on the agenda. The mayor's status as presiding officer does not confer any power to determine rules of procedure which the NM state statutes say the City Council SHALL determine.

Mayor Holman has usurped the position of the Legislative Branch with total agenda control causing conflict and dysfunction which is a threat to local democracy and civil discussion. The legislative powers of the City Council are extremely diminished by the improper legislative control of this mayor and his Executive Branch over the City Council.

Last year a mediator was sent here by the NM State Municipal League to educate the Executive Branch how to conduct itself and cease attempting to control the Judicial Branch. That expensive and competent mediator made very little headway into the problem because this mayor decided that the findings and remedies given were only suggestions. He was also told to let the Judge on the agenda when she asked to be on the agenda, but he has refused to let her on the agenda for over 13 months. She has to show up as a citizen during citizen's comments to address the Governing Body.

Now this Executive Branch is assuming powers of the Legislative Branch. This mayor refuses to let the Governing Body put anything on the agenda as demonstrated by these denied requests to be on the agenda; all of these are for this year.

Mayor Holman is breaking state laws, local laws and even personnel policies, appearing as if he believes he is above the laws and regulations established for you and me and the rest of society.