

**CITY OF RUIDOSO DOWNS
GOVERNING BODY REGULAR MINUTES
MONDAY, July 11, 2022 - 2:00 PM
THE HUBBARD ROOM
123 DOWNS DRIVE
RUIDOSO DOWNS, NEW MEXICO 88346**

The City Council of the City of Ruidoso Downs met in regular session on Monday, July 11, 2022. Mayor Holman called the regular meeting to order at 2:00 p.m. and asked Councilor Walker to lead in the Pledge of Allegiance.

ROLL CALL

Present: Councilor Walker, Councilor Lundquist, Councilor Lacewell

Present by Phone: Councilor Miller

Municipal Employees Present:

Alejandra L. Giron, City Clerk/Treasurer

Selena Chavez, Assistant City Clerk

John Underwood, City Attorney

Joey Jarvis, Public Works Director

Andrea Herrera, Planning & Zoning Director

Mary Castaneda, Finance Director

Bruce Baker, Assistant Fire Chief

Officer Nick Malone

Guests Present: 15

Guest Speakers Present:

Corena Baca, Big Ben Sanchez Youth Foundation

APPROVAL OF AGENDA

Mayor Holman stated next item on the agenda was Approval of Agenda. Councilor Walker moved to approve Agenda. Councilor Lundquist seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

APPROVAL OF CONSENT AGENDA

Mayor Holman stated next item on the agenda was Approval of Consent Agenda. Councilor Miller moved to approve the Consent Agenda. Councilor Lundquist seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

PUBLIC INPUT

Mayor Holman stated next item on the agenda was Public Input.



Lammond Hurst made comments.

Pam Williams made comments.

Joyce Gustafson made comments.

COUNCILORS COMMENTS

Mayor Holman stated next item on the agenda was Councilors Comments.

Councilor Lundquist stated that she appreciative of Ally Giron, City Clerk.

Councilor Lacewell also agreed with Councilor Lundquist.

Councilor Walker gave his thanks to Ally and that she is doing a good job.

MAYORS COMMENTS

Mayor Holman stated next item on the agenda was Mayors Comments.

Mayor Holman thanked Ally for her help in bringing this City in better shape.

PUBLIC HEARING

A. Mayor Holman stated next item on the agenda was Ordinance 2022-06, An Ordinance Amending the City of Ruidoso Downs Code of Ordinance Title XV: Land Usage, Chapter 155 Zoning.

Mayor Holman opened the hearing to the public at 2:14p.m. There being no public discussion Mayor Holman closed to the public at 2:15p.m. and opened it to the Councilors.

John stated this Ordinance has been in the review of the Land Use Ordinance for the past five years and that it is up to Council if they wish to amend this Ordinance.

Councilor Miller asked if the setbacks have been addressed and suggested to still use variances in the setbacks for smaller subdivisions.

John responded that Variances are allowed.

Sally Turner asked is this Ordinance was transferring the authority from Council to Planning & Zoning.

John clarified that it is not.



Councilor Lacewell moved to approve Ordinance 2022-06, An Ordinance Amending the City of Ruidoso Downs Code of Ordinance Title XV: Land Usage, Chapter 155 Zoning. Councilor Lundquist seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

B. Mayor Holman stated next item on the agenda was Ordinance 2022-07, An Ordinance Adopting the Legislative Intent, Findings, and Purpose Relating to the Regulation of Cannabis; Setting Forth Violations, and Providing for Enforcement and Penalties

Mayor Holman opened this item to the Public at 2:24p.m.

Kay Stirman stated she is concerned about this Ordinance as it is vague for the penalties and enforcement. She stated there is a lack of communication and is concerned from the repercussions from the passing of this Ordinance and wants the enforcement and penalties to be clearer.

John responded to the concern of the enforcement on the Cannabis Ordinance and explained the State has created a division separately for the enforcement of Cannabis laws. The punishments include having their license revoked whereas the alcohol and beverage division was more lenient in the punishments. He stated we all hope that we have adequate enforcement of this state law.

Lammond Hurst stated this proposed location on any Cannabis consumption are on 3.1 of the Ordinance it was previously school/child/adult daycare center.

John stated that is currently reads as the amendments was to take off the word park and adult.

Mayor Holman closed the Hearing to the Public at 2:38p.m. there being no further discussion and opened it to the Councilors.

Councilor Miller asked what the repercussions are if they are to use Cannabis outside of the business.

Andrea responded there is a specific license for consumption use areas for the businesses and there is no public usage.

Councilor Miller asked if they are in a public area then it can be reported.

Andrea responded that yes it can be reported.

Councilor Walker stated it was a great team effort. Andrea, Juaquina did a great job. Selena and Ally headed up this and stated you guys did a really good job and are a good team. It wouldn't have gotten this far without you four.



Councilor Lundquist moved to approve Ordinance 2022-07, An Ordinance Adopting the Legislative Intent, Findings, and Purpose Relating to the Regulation of Cannabis; Setting Forth Violations, and Providing for Enforcement and Penalties. Councilor Walker seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

Mayor Holman closed the Public Hearing at 2:44p.m.

NEW BUSINESS

A. Mayor Holman stated next item on the agenda was Discussion and Possible Action on Agreement between the City of Ruidoso Downs and The Big Ben Sanchez Youth Foundation for the use of All American Park and Fee Waiver.

Corena presented to Council that the Foundation is going to be having several fundraising events and held at the All-American Park and is asking that the Council waive the fee for the use of the Park.

Councilor Lundquist moved to approve Agreement between the City of Ruidoso Downs and The Big Ben Sanchez Youth Foundation for the use of All American Park and Fee Waiver. Councilor Miller seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

B. Mayor Holman stated next item on the agenda was Discussion and Possible Action on Approval of the Sale of City Owned Property Located at 306 Second Street.

Joey presented to Council that the city owns about .95 acre on Second Street that has never been used. The market is good now and it is not being able to use it for anything and asked Council for their opinion.

John asked what the appraisal is on the property.

Joey responded that it has not been done.

Councilor Walker stated that he disagrees that it should be looked at and possibly invest some money into it.

Joey stated there is no Utilities or Road maintenance on that road at all.

John suggested that Council request for Joey to get an appraisal on this property.



Councilor Miller suggested that we keep the property and possibly use it for a green area.

John suggested that a market value be done on the property and be presented to Council at the next council meeting.

Councilor Lacewell moved to have an appraisal done or a market value on the City Owned Property Located at 306 Second Street. Councilor Miller seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

C. Mayor Holman stated next item on the agenda was Discussion and Possible Action on Approval of Fiscal Agent Contract between the City of Ruidoso Downs and SNMEDD/COG for services on Capital Outlay Projects 22-G2889 and 22-G2888, in the amount of \$15,500.00.

Joey stated to Council this year's capital outlay is \$250,000.00 which requires we use a fiscal agent for both of the Capital Outlay projects and will be \$15,500.00 out of our funds.

Councilor Miller moved to approve Fiscal Agent Contract between the City of Ruidoso Downs and SNMEDD/COG for services on Capital Outlay Projects 22-G2889 and 22-G2888, in the amount of \$15,500.00. Councilor Walker seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

D. Mayor Holman stated next item on the agenda was Discussion and Possible Action on Adoption of Resolution 2022-17, a Resolution Approving Fire Restrictions Change to Level I.

Bruce presented to Council that the recent weather changes and the rainy weather cooling down has led him to change the fire restrictions and requested for Council's approval.

Councilor Lundquist moved to approve Resolution 2022-17, a Resolution Approving Fire Restrictions Change to Level I. Councilor Walker seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

E. Mayor Holman stated next item on the agenda was Discussion and Possible Action on Adoption of Resolution 2022-18, a Resolution Adopting a Credit Card Policy According to Requirements of Department of Finance and Administration.

Mary asked if anyone has questions

Councilor Walker asked if she could explain to the Public about the policy and about DFA.



Mary stated this is a policy for credit card handling for all employees to which is already in place but DFA is needing for an official policy to be adopted. DFA is the Department of Finance and Administration and requires we be audited annually per state statute by a state approved auditor. The City cannot pick out just any one.

Councilor Lundquist moved to approve Resolution 2022-18, a Resolution Adopting a Credit Card Policy According to Requirements of Department of Finance and Administration. Councilor Walker seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

F. Mayor Holman stated next item on the agenda was Discussion and Possible Action on Approval of Agreement between the City of Ruidoso Downs and the Humane Society of Lincoln County, in the amount of \$27,000.00.

Mary presented this Contract is the annual contract for renewal in July and the budgeted amount of \$27,000.00 is meant for this contract.

Councilor Lundquist asked if there can be a clause in the agreement to where they can prove that those animals came from the City.

John responded and read in the Contract paragraph 8. Allocations of animals (Exhibit A). John asked if they provide the City with a monthly amount of animals that they take in.

Mary responded that she recently received an amount of the animals picked up fiscally as they kept track on a calendar year basis.

John suggested that he write a letter requesting that they provide the City notification prior to continue billing.

Officer Malone stated last year there were at least five animals that were picked up by Animal Control that were caught by people out of town in the City and were taken to the Humane Society.

John suggested that if Council allows him to write a letter to the Humane Society along with the Agreement as he thinks there is sufficient language in the Contract in paragraph 8 that covers that.

Councilor Lundquist moved to approve a letter form the City Attorney go along with the Agreement between the City of Ruidoso Downs and the Humane Society of Lincoln County, in the amount of \$27,000.00. Councilor Miller seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.



G. Mayor Holman stated next item on the agenda was Discussion and Possible Action on Approval of Agreement for Engineering Services between the City of Ruidoso Downs and Frank X. Spencer & Associates, Inc.

Mary presented to Council that the Agreement for Engineering Services is for Frank X. Spencer Engineers that is on call and is a four-year contract.

Councilor Lundquist moved to approve Agreement for Engineering Services between the City of Ruidoso Downs and Frank X. Spencer & Associates, Inc. Councilor Miller seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

H. Mayor Holman stated next item on the agenda was Discussion and Possible Action on Approval of Memorandum of Understanding between the Village of Ruidoso as Fiscal Agent for the Lincoln County/Ruidoso DWI Program and the City of Ruidoso Downs as the Administrative Authority for the Ruidoso Downs Police Department for DWI Enforcement Activities and Reimbursement of Costs.

Mary presented this contract is annually that allows our officers to work the DWI Program that is refundable up to \$6,000.00.

Councilor Lundquist moved to approve Approval of Memorandum of Understanding between the Village of Ruidoso as Fiscal Agent for the Lincoln County/Ruidoso DWI Program and the City of Ruidoso Downs as the Administrative Authority for the Ruidoso Downs Police Department for DWI Enforcement Activities and Reimbursement of Costs. Councilor Walker seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Miller, Councilor Lundquist, Councilor Lacewell, Councilor Walker.

Mayor Holman stated next item on the agenda was Closed Session for Discussion subject to the attorney-client privilege pertaining to threatened or pending litigation in which the City of Ruidoso Downs is or may become a participant. §10-15-1. H.7, NMSA 1978 and entertained a motion to move into a close session.

Mayor Holman recessed the Regular session at 3:33 p.m.

Mayor Holman reconvened the Regular session back at 3:44p.m.

Councilor Walker moved to recess into Discussion of limited personnel matters. §10-15-1.H.2, NMSA 1978. and any action taken as a result of the Closed session will be brought back into open session. Councilor Lacewell seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Walker Councilor Lundquist, Councilor Lacewell, Councilor Miller.



Present in the closed session were as follows:

Mayor Holman
Councilor Walker
Councilor Lundquist
Councilor Lacewell

Present by Phone: Councilor Miller
Alejandra L. Giron, City Clerk/Treasurer
Selena Chavez, Assistant City Clerk
John Underwood, City Attorney

Councilor Walker moved to enter back into Regular Session at 4:07p.m. Councilor Lundquist seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Walker, Councilor Lundquist, Councilor Lacewell, Councilor Miller.

Councilor Walker attested to the fact that only items discussed in Closed session was matters subject to the attorney-client privilege pertaining to threatened or pending litigation in which the City of Ruidoso Downs is or may become a participant. §10-15-1. H.7, NMSA 1978 in limited personnel matters.

Councilor Walker moved to instruct the city attorney to move forward with hiring a hearing examiner for the case of this personnel matter. Councilor Lundquist seconded and motion carried by unanimous roll call vote as follows: Aye: Councilor Walker, Councilor Lundquist, Councilor Lacewell, Councilor Miller.


ADJOURNMENT

There being no further business to come before the Governing Body, Mayor Holman adjourned the regular meeting at 4:11p.m.

MINUTES ARE DRAFT UNTIL APPROVED ON:

Passed and Approved on this 25th day of July 2022.

APPROVED:


Dean Holman, Mayor

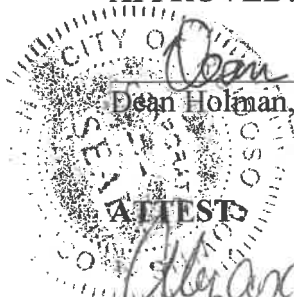
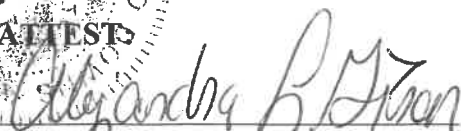

ATTEST

Alejandra L. Giron, MMC
City Clerk/Treasurer



Exhibit A

1 of 2

judgments, damages, liabilities, lawsuits, expenses, fees of attorneys, costs or actions of any kind or nature whether resulting from death, bodily injury or damage to property arising from or out of, connected with, resulting from, or related to Humane Society's activities in connection herewith, including, but not limited to, the operation of the Animal Shelter or the Humane Society's use or occupancy of any motor vehicle, including, but not limited to, any negligence or intentional acts or omissions of the Humane Society's officers, employees, servants, agents, representatives, customers, invitees, patrons, business with or receiving services from Humane Society. The Humane Society's agreement to hold harmless, indemnify, and defend City shall not be affected, terminated, or cancelled upon the expiration of the term or expiration of any renewal period or any other termination of this Agreement.

By entering into this Agreement, City and its 'public employees' as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defenses, and do not waive any limitations of liability pursuant to law. No provision in this Agreement modifies or waives any provisions of the New Mexico Tort Claims Act.

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions or any part of this Agreement to create in the public or any member thereof a third party beneficiary or to authorize anyone not a party to this agreement to maintain any suit for wrongful death, bodily or personal injury, damage to property, or to any other matter whatsoever, pursuant to the provisions of this Agreement.

5. Responsibilities of the Parties: City shall not be obligated for shelter maintenance, improvements, feeding, cleaning, utilities, or Humane Society's personnel in connection with the operation of the Animal Shelter. Humane Society is an independent contractor by performing these services for the City and is not an employee of any federal, state or local governmental body and is not an agent of the City. Humane Society employees shall not be considered City employees and, as such, shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of the City, as a result of this agreement.

6. Requirements of Humane Society: The Humane Society agrees to provide a properly trained director and adequate staffing for operation of the Animal Shelter. The Animal Shelter shall be clean and well maintained at all times, and be operated consistent with industry standards.

7. Custody of Sheltered Animals: Except as otherwise provided herein, all animals which are brought to the Animal Shelter by City employees, or any other person designated by City to render such services, shall remain under jurisdiction of the City until redeemed by the owner, euthanized, or released to the Humane Society for adoption. Except for quarantined animals and detained animals as defined in the paragraph 9(C) and (D) below, all untagged animals that remain in the Animal Shelter for a period of seventy-two (72) hours for untagged animals or five days (120) hours for tagged animals, excluding Saturdays, Sundays and holidays, shall, at the end of said period, be deemed to be the property of the Humane Society for the Humane Society to adopt out or euthanize, in its sole discretion.

8. Allocation of Animals for Accounting Purposes: No allocation of the number of animals received after business hours, for the purpose of accounting, shall be made to City unless all

Exhibit A

2 of 2

animals received are apportioned to all village, municipal and county business utilizing the services of the Animal Shelter at the time. When the animals are received during business hours by members of the general public, the Humane Society shall require these members of the public to produce a valid driver's license and list a local and/ or home street address. The local address shall be used to allocate animals to the respective participating agencies. Animals from a governmental jurisdiction not participating in the operation of the Humane Society shall be the sole responsibility of the Humane Society should it decide to accept the animals.

9. Designated area for confinement: Humane Society agrees to maintain within the Animal Shelter separate areas for:

A. Adoptable Animals---which are defined as:

Those animals, which were owned or were not claimed after being found astray and not vicious, and which the Humane Society determines, in its sole discretion, are deemed suitable for placement with persons who may wish to adopt said animals.

B. Quarantined Animals---which are defined as:

Those animals which have made an actual puncture or tear of the skin inflicted by teeth. Such animals are to be confined or disposed of in a manner provided by City ordinances and according to State Law; or on a finding by any of the above-named authorities of an existence or danger of existence of rabies in a particular area of the City, and such animals are to be banded or disposed of a manner provided by City Ordinances and according to State law.

c. Stray Animals---are defined as animals which are found off the premises of the Owner and not under direct control, custody, charge, or possession of the Owner or Keeper and are without proof of current vaccination against rabies, or the owners of which are not known.

Specifically excluded from the definitions herein are any animals detained because of actions initiated by the Humane Society.

D. Detained Animals---defined as those animals that do not fit any of the aforementioned definitions and that have been placed at the Animal Shelter by the City or its "public employees" pursuant to the enforcement of any and all local laws, statutes, ordinances, city codes, state laws, or pursuant to the order of the Court.

10. Hours of Operation: The City Animal Control Officer will have keyed access to impound facilities at the Animal Shelter at all times for the purpose of impounding animals for care and housing during the hours when the Animal Shelter is not open for business. Humane Society agrees to provide care for impounded animals seven (7) days per week. The Animal Shelter will be open to the public for adoptions and redemption of animals and to conduct business on five (5) days per week with a minimum of four (4) hours of operation per day, inclusive of Saturdays. The hours of operation shall be provided to the public and shall be adhered to unless the Humane Society Animal Shelter is closed for a recognized holiday or for an emergency.