

MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
FEBRUARY 12, 2003

The Council of the City of Ruidoso Downs met in regular session on February 12, 2003. Mayor Miller called the meeting to order at 5:30 p.m. and asked Bonnie Richardson to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Miller Councilor Garrett
Councilor Olivo Councilor Morales

Administrator Waters informed Mayor Miller there was a quorum.

Also present were:

Dan Bryant, City Attorney
John Waters, City Administrator
Carol Virden, City Clerk/Treasurer
Tom Armstrong, CE/BI
Ken Mosley, Public Works Director
David Hightower, Deputy Chief of Police

APPROVAL OF AGENDA

Motion was made by Councilor Garrett and seconded by Councilor Morales to approve the Agenda. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Motion was made by Councilor Morales and seconded by Councilor Olivo to approve the Consent Agenda. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

MINUTES

Motion was made by Councilor Morales and seconded by Councilor Olivo to approve the Minutes of the Regular Meeting on January 29, 2003. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

MONTHLY REPORTS

Motion was made by Councilor Morales and seconded by Councilor Olivo to approve the following reports:

Fire Report	Animal Control Report	Public Works Report
Court Report	Code Enforcement Report	
Police Report	Maintenance Report	

Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

ACCOUNTS PAYABLE

Motion was made by Councilor Morales and seconded by Councilor Olivo to approve the Accounts Payables. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

Mayor Miller stated next on the agenda, recognition of Police Officers Manuel Tejada and Edward Armijo graduates from the New Mexico Law Enforcement Academy. David Hightower, Deputy Chief of Police, said both officers did exceptionally well in the academy. I believe they graduated in the high eighties if not the 90 percent g.p.a. Mayor Miller, Councilor Olivo, Councilor Morales and I went up to the graduation and it was a nice ceremony. It was the first year that the governor spoke as the keynote speaker for the graduation service.

Officer Tejada said at the academy we got to know each other really well and I hope we have a good, long career here. I really appreciate everyone giving us a chance and I really appreciate everyone's support throughout everything we had to do. I plan on being here for a while and hopefully everybody will keep us around. Hopefully we can do everybody right and treat people the way we would like to be treated. Officer Armijo and I have talked about this in depth before and we both feel like if you respect the people, usually in return you get respect.

Officer Armijo said he was glad to be back. It was a long five and a half months, it seemed like two years. There was a lot of work at the academy and studying and training. Everything I learned there was a benefit. Some people didn't have to study there but I had to study a lot. I failed the first test and after failing the first test, that was it. I wasn't going to fail another test. Ultimately I ended up graduating with a 91 that I am happy with. I am glad to be back here in the community and glad to be working with everybody. I will do the best I can working with the community and the police department. I thank you for all of the support.

Mayor Miller said we are real proud of both of you. You did well and the training you received will be with you the rest of your career. We do hope you have a long, happy career here. We are going to try to advance the police department with more grades that you can advance through time. We will give you about all of the equipment there is available. We really appreciate you two officers.

Councilor Olivo said that is the first time a Council member goes to a graduation for a police department. That was the first time I saw Edward smile is when he got his diploma.

Councilor Morales said I got to go also with the Mayor and Rene and I was very proud of our police department. I was very proud of the routine, especially the marching, it was very impressive.

Manuel Tejeda did they say they had one of the better classes in the last few years and on the final test, I got the second highest grade in the class.

Councilor Miller said she was sorry she missed it.

Motion was made by Councilor Morales and seconded by Councilor Olivo approving Personnel Action of Certification from Police Academy on January 31, 2003 for Edward Armijo and Manuel Tejeda. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo approving Resolution 2003-04 for Project No. SAP 02-0144-STB Water Storage System Rehabilitation. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo to award Bid No. 03-006, Itron Compatible Radio Read Water Meters, to Mountain States Pipe & Supply. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo awarding Bid No. 03-007 for 2003 ½ ton 4x4 Pickup Truck to low bidder Bob Turner Ford with a bid of \$19,750.99. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo awarding Bid No. 03-007 for New Regular Cab 15,000 GVW Truck, 4x4 With Utility Bed and 4,000 pound Crane to low bidder Bob Turner Ford with a bid of \$42,912.21. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo for approval to Advertise Bid No. 03-008 for a Belly Dump Trailer. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo for approval to Advertise Bid No. 03-009 for Water Tank Rehabilitation. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo for approval to Advertise Bid No. 03-010 for four wheel drive Police Unit with light bar and radio. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo for approval to Advertise Bid No. 03-011 for Surveillance Cameras for Police Department. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Olivo for approval to Advertise Bid No. 03-012 for Central Air Conditioner System. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, consider approval for destruction of Public Records Phase II. Clerk Virden said again I come before the Council to request permission to destroy approximately 26.9 cubic feet of paper. This is Phase II and we still have several phases to go through. I did take the advice of Mrs. Bell and I did get in contact with Sonny Clay. She has a business called Total Destruction. It is a mobile unit with a big shredder and it took forty minutes to destroy all of the paperwork. We destroyed 256 pounds of paper. For your review, I did get a Certificate of Destruction and also a Certificate of Confidentiality of those records. I also did a Certificate of Destruction myself with the total cubic feet and total pounds of paper that were destroyed. I come before you again to request Phase II for destruction.

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve destruction of Public Records Phase II. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

OTHER BUSINESS

There was no other business.

PUBLIC INPUT

Betty Faircloth said she was here to represent the Ruidoso Downs Auxiliary. I would personally like to invite each of you and the city employees to a social that we will be having on Monday, March 10th at 7:00 p.m. at the Senior Citizens Center. We think it would be a great opportunity for the citizens to meet city as well as county officials in a casual, social setting. The Auxiliary would appreciate each of

you being there as our guest. Again, the date is Monday, March the 10th at 7:00 p.m. at the Senior Citizens. We will be providing refreshments and we will send out invitations. If you have any questions, we will try to answer them for you.

Attorney Bryant said in my capacity as your attorney and in my capacity as county attorney of Otero County, I have to keep a careful eye on what is happening with the legislature. Everybody has heard the news account about the potential of legislation this year that would create some rather large exemptions to New Mexico's gross receipts and compensating tax portions of this state's tax structure. Those have been expressed in the media as covering medical services, prescriptions and food at the grocery stores. It has created quite a scramble and furor in local government because, for example, we estimate the impact on this community of a complete exemption on all three of those categories hitting all at once to be somewhere between forty and sixty percent of our total receipts from that portion of our tax base. What you need to know about that is it is huge. It is creating quite a panic on a statewide level as communities are asking DFA and local government to give us an estimate of what is going to be the impact in my community based on what you know about where our gross receipts come from. As a consequence of that, the governor made an agreement informally with everybody that we weren't going to do that in the legislative session. There was going to be a special session set up in September or October and in the intervening months, there was going to be a blue ribbon commission put together consisting of local governments and the governor's representatives to take a complete look at the whole tax structure and then come up with recommendations about how to do this in a way that doesn't seriously disrupt your ability to provide services to your citizens. As a consequence of all of that, I have been scrambling around and studying how the whole tax structure was put together initially back in the 1960's. There have been a number of papers written through time that discuss it. I have found a really recent law review article in the NMU Law Review that takes a look at the whole picture of the New Mexico tax structure. It is a 40 page article; it is not hard reading. What I would like to do is get a copy of this to each one of you to look at and to study because while I was in Santa Fe last week for a Workers' Compensation State Board meeting which is part of the work I do for Otero County, I stopped in at the legislative liaison's office at the Association of Counties and I just happened to catch her at the same time that a runner walked in with a Bill that was introduced by Cisco McSorley on Thursday of last week cutting gross receipts out on all three of those items. We are talking to the governor; we are talking to Cisco McSorley trying to find out if this means the plan has changed, yes or no. All of those negotiations are happening. As I sit before you tonight, I don't have any answers but we do have a tremendous red flag in the air with that Bill being dropped, particularly with it being dropped by as powerful a legislator as Cisco McSorley is because he is very influential and very well thought of, a very effective legislator for his constituents. I want to get a copy of this article made for all of you to read so you can start schooling up on those issues because I have got a feeling we are going to have to deal with it before September or October. Everybody needs to be aware and you need to be careful particularly since all of this is happening and in two weeks, we are starting our budget process about March 1st

trying to plan how we are going to fund city operations and services in the next fiscal year. I can't stress the importance of this issue. We of course need to talk to Dub Williams, Dianna Duran, Pete Campos and Representative Foley from Roswell. We need to be asking all of them please let's study this issue and let's put a plan in place that phases in that all of the local governments can live with. I don't think anybody denies the regressive nature of gross receipt taxes. I don't think anybody denies that they hit our poor, our infirm and our elderly more than the rest of us, but there has to be a rational plan in place. Gross receipts tax accounts for more than 41 percent of all of the revenues that come into the State of New Mexico. If you are going to knock 40 percent of 40 percent out from under that leg, the impact is going to be tremendous. This article is a short read but it gives you a good picture of all three legs of the tax stool in New Mexico, how they work together and why it is important to keep balance there.

Administrator Waters said he wanted to add that with the opportunity we have coming up on Municipal Day, historically that is the time when the councilors, the administration and the mayor hit, not only our local elected representatives, but we also go to some of these other folks like Mr. McSorley and some of the other legislators that are in charge of getting these Bills passed through committees and express our concerns and relevant dissatisfaction with the Bills. We may be hit harder than some of the others because we do depend upon a significant portion of the gross receipts tax at the pharmacy at Wal-Mart. It will hit us hard if there is not something reasonable there to compensate it. Some of things that were thrown around last year as compensating and holding municipalities harmless would be cigarette and alcohol sales. Cigarettes, in particular, are declining revenue. So you are replacing something that is growing with something that is declining. You can only pay so much for a pack of cigarettes or a six-pack of alcohol. There are some significant problems with the strategies they have proposed in the past putting this through. I am glad that Dan got a hold of that and we can all study it because I think it is critical to our municipality for survival in the future.

Joe Blaney said talking about legislation, I read in the paper they are again looking at closing magistrate court division in Carrizozo. I think it might be a good idea if the mayor and councilors issue a letter of support for keeping the courts open. Mayor Miller said certainly, thank you much.

EXECUTIVE SESSION

Mayor Miller stated next on the agenda, Executive Session pursuant to Section 10-15-1(H) 7, Threatening and or Pending Litigation. I would like to entertain a motion to go into Executive Session.

Councilor Morales made a motion to go into Executive Session pursuant to Section 10-14-1(H) 7, Threatening and or Pending Litigation. Second by Councilor Olivo. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated he would like to invite City Administrator John Waters, City Attorney Dan Bryant and City Clerk Carol Virden to attend the Executive Session. I hereby close the regular meeting at 5:54 p.m.

Mayor Miller called for a motion to go back into Regular Session at 6:43 p.m. Councilor Morales made a motion to go back into regular session and declared that the only matter discussed was Limited Personnel Matters and no action was taken. Second by Councilor Olivo.

Motion was made by Councilor Miller and seconded by Councilor Garrett to adjourn at 6:43 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer