

MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
JULY 24, 2003

The Council of the City of Ruidoso Downs met in regular session on July 24, 2003. Mayor Miller called the meeting to order at 5:35 p.m. and asked Ken Nosker to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Miller Councilor Morales
Councilor Garrett Councilor Olivo

Administrator Waters informed Mayor Miller there was a quorum.

Also present were:

Dan Bryant, City Attorney
John P. Waters, City Administrator
Carol Virden, City Clerk/Treasurer
Tom Armstrong, License/Permits Supervisor
Robert Logan, Chief of Police
Ken Mosley, Public Works Director

Mayor Miller stated I would like to remind the public that the meeting is an open meeting for all to attend. Abusive, disrespectful, derogatory or profane language during the meeting of the City Council will not be tolerated. Those who use such, will be asked to leave the meeting, or if necessary, will be removed by the sergeant-at-arms.

APPROVAL OF AGENDA

Mayor Miller entertained a motion to approve the agenda. Motion was made by Councilor Miller and seconded by Councilor Garrett to approve the Agenda. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor Miller entertained a motion to approve the consent agenda. Councilor Morales moved to approve the Consent Agenda. Second by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF JULY 10, 2003 REGULAR MEETING

Motion was made by Councilor Morales and seconded by Councilor Miller to approve the Minutes of the July 10, 2003 Regular Meeting. Roll call votes: 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 Miller to approve the Accounts Payables. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

UNFINISHED BUSINESS

None

NEW BUSINESS

Mayor Miller stated first item on the agenda is considering request to waiver sewer March 2000 to June 30, 2003 for Joe and Valley Fallwell. Administrator Waters said Mr. Fallwell lives at a residence as a person who leased some property and a rent house. The owner and the current resident were unaware and it is my understanding that the owner was sold the house with the expectation and understanding that he was on city sewer. They were charged accordingly based upon their usage rate. Their usage rate was essentially above and beyond the minimum rate which accumulated a lot of money over a period of time from March, 2000 to just after this fiscal year. By ordinance I am allowed to look at something like this and forgive the above and beyond. They still have sewer available but their sewer usage fee above, I was able to forgive. However, I can only do that back to the beginning of the fiscal year; it does take the Council approval for prior fiscal years. I believe Mr. Fallwell can explain about the situation. He didn't put this sewer into the system. Staff is recommending we credit his account back to March of 2000 and fiscal years 2001 and 2002 and subtract out the sewer available fee and give him back everything above and beyond that available fee. He just recently discovered he is on a septic tank.

Joe Fallwell stated we leased this property under the impression that is was on the sewer and come to find out it wasn't. The people that own it weren't aware that it wasn't on city sewer. They wanted me to talk to Council and see how the Council feels. It's not that much - about \$250. Councilor Miller asked if he was planning to hook up to the sewer now and Mr. Fallwell answered that is what the owners are planning on doing. They do want to hook to the sewer but they are going back and researching their records to see if they have any recourse back to the people that sold it to them. They are willing to work with the city.

Councilor Miller moved to approve the request. Second by Councilor Garrett. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda Item B. and it has been removed as Mr. Mahaffey could not attend.

Mayor Miller stated next item on the agenda, consider Ruidoso Downs Chamber of Commerce request for use of city property. It is the property that is on the corner that goes to the city shop. It is a flat piece of property that is not being used. I recommend we support this because we are a part of the Chamber of Commerce.

Pappy Bell said I am representing the officers and directors of the newly formed Chamber of Commerce. We would like the city to be able to put a building on city property. If they would O.K. to do that we would also like the Council to O.K. for city workers to help us level out the property so we could put the building we have purchased on that property for temporary dwelling for the Chamber of Commerce, the property being located at Parker Road and Tom White's Mobile Home Park on the highway. Mayor Miller asked is it a temporary building and Pappy Bell responded yes until we get a permanent location. The Chamber of Commerce is moving forward trying to get organized. I don't know the exact numbers we have now but it is over twenty I am sure.

Barbara Green introduced herself and said I am the President of the Ruidoso Downs Chamber of Commerce. We would also like to ask the city if they could provide water and sewer to our site if you decide to let us use the property there for a temporary site.

Councilor Garrett said I just wanted to speak in favor of it. I think the Chamber is going to be a really good addition to the city. Since I am involved with the Chamber at this time, I am going to recuse myself from any movement on this issue.

Councilor Morales asked is there any problem with this and the anti-donation clause. Administrator Waters said it is a non-profit organization and the city is a member of it. Cities do this in a lot of different places but I will check to make sure that is not an issue and if it is, I will bring it before the Council. Any action that is taken by Council will be contingent on that. Councilor Morales said I want to go on the record as supporting our Chamber of Commerce but I also want to make sure we are not violating any act.

Councilor Olivo asked if the city has any plans for that parcel of land. Mayor Miller said it will be a temporary type thing until they find a permanent location. Administrator Waters said that property is owned by the city on the highway and is not considered in any master plan at this time.

Motion was made by Councilor Morales and seconded by Councilor Miller to approve the request for use of city property for the City of Ruidoso Downs Chamber of Commerce provided it does not violate the Anti-Donation Act. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Abstain. Motion carried.

Mayor Miller stated next on the agenda, consider alternate date for City Council meeting of August 28, 2003 as it coincides with the New Mexico Municipal League Annual Conference.

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the Council Meeting be moved to Monday, August 25, 2003, this one time only. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approval of Resolution 2003-15 Fire Restrictions. Jim Badjar said my request would be, during the extreme fire danger we are under, we continue with the extreme fire danger restrictions until the next council meeting to see if we have received any rain up to that point and maybe we can change it then. For now, I would like to see us stay with the restrictions we are under.

Motion was made by Councilor Miller and seconded by Councilor Olivo to approve Resolution 2003-15 Fire Restrictions. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving Resolution 2003-16 authorizing and affirming the Action of the Mayor, City Clerk and City Attorney in presenting to and pursuing a petition for annexation of certain territory into the City of Ruidoso Downs in the Municipal Boundary Commission.

Administration Waters said I will read the resolution as it is currently written. It is a standard resolution; the Council goes before the Municipal Boundary Commission and asks them to make a decision.

"A RESOLUTION AUTHORIZING AND AFFIRMING THE ACTION OF THE MAYOR, CITY CLERK AND CITY ATTORNEY IN PRESENTING TO AND PURSUING A PETITION FOR ANNEXATION OF CERTAIN TERRITORY INTO THE CITY OF RUIDOSO DOWNS IN THE MUNICIPAL BOUNDARY COMMISSION.

WHEREAS, the governing body has determined that the City of Ruidoso Downs should annex and provide municipal services to the territory described on the map which is attached hereto as Exhibit "A", and (a copy of the map is posted on the outside door and each Councilor has a copy of the map.)

WHEREAS, the territory proposed to be annexed is contiguous to the City of Ruidoso Downs and will be provided with municipal services by the City within a reasonable time, and;

WHEREAS, the City of Ruidoso Downs presently provides, the following municipal services within various portions of the proposed area for annexation at varying levels and degrees:

1. Water
2. Sewer
3. Police Protection
4. Fire Protection

WHEREAS, the services listed above and all other municipal services can be provided within a reasonable time to the territory proposed to be annexed.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RUIDOSO DOWNS that the law firm of Daniel A. Bryant, P.A., is appointed as City Attorney to file and pursue the annexation petition in the Municipal Boundary Commission;

NOW, THEREFORE BE IT FURTHER RESOLVED BY THE GOVERNING BODY OF THE CITY OF RUIDOSO DOWNS that the Mayor, City Clerk and City Attorney shall present to the Municipal Boundary Commission and pursue a formal Petition of Annexation of the territory in Lincoln County described on the attached Exhibit "A", such territory to be more particularly defined and described on maps, plats, and legal descriptions attached to the Petition for Annexation. **PASSED, APPROVED AND ADOPTED this 24th day of July 2003."**

In that you also have some information on the petition. The petition is listed as one of three means of how annexation can occur within city limits. This one involves a neutral, unbiased Municipal Boundary Commission with the state appointed commission by the governor to review the request, review all public input, hold public hearings and basically make the decision whether this is a viable thing necessary for the citizens that live in this area and for the State of New Mexico. This is generally pursued by municipalities when there are areas they would like annexed and they have people that are for and people that are against it in the area. It is an area where there are critical issues facing that governing body that they need to address. They would like the state to step in, listen to both sides and make a judgment call. If the Council were to pass this resolution, it would take the Municipal Boundary Commission a period of about a month and a half to put notices within the local paper. I believe they have a minimum of four notices they would have to put in that would announce a Public Boundary Commission public hearing over the annexation issue. In this hearing would be where the public approach the Commission, ask for permission or certain items or say we want to be annexed or we don't want to be annexed and these are the reasons why. This is also the place where the state agencies and the city can come state their case as well. Essentially what happens is the Municipal Boundary Commission listens to all of the public comments and they make an unbiased judgment on what we can and cannot annex. It can do anything from the areas the city is currently asking for, it can be trimmed off, it can be added to based on the hearings. This takes the place of having a hearing in a county or a commissioned area that gives the city council or county commission the opportunity to make that decision. This basically takes it to a neutral source who can sit as judge, look at the situation, look at the merits of the situation on both sides and then make that determination. I will tell you this particular area, as I have said before, relates to the areas that are listed on the map. Any interested parties should look at the yellow areas on the map that show the possible areas of annexation.

A little bit of history as to what brought this about, other than the fact that we have had several people request annexation for a large amount of property east of town along Highway 70 as well as some individuals from the Agua Fria subdivision plus some individuals on the other side of the highway. Essentially we are driven by a huge environmental issue that faces the entire valley. This issue is going to have to be faced in one form or another by our neighbors to the west of us as well. We have a problem with our

wastewater treatment plant. That problem is linked to a watershed issue. The Environment Department, the Streams Commission, the Water Quality Control Commission, the folks that determine where a stream is polluted, have determined that the Rio Ruidoso is a polluted breach of the stream. We know that now to be a fact. Phosphorus and nitrates are exceedingly high in the Rio Ruidoso throughout the valley. Above and below the wastewater treatment plant you find large amounts of algae choking the Rio Ruidoso. The Environment Department determined the algae are there because there is pollution. Non-point source pollution is the pollution that is created by septic tanks, runoff, forest fire runoff and the like. Point source pollution is created by a wastewater treatment plant or a specific discharge into the river, a storm water discharge or the like. We have been dealing with the Environmental Protection Agency over the wastewater permit that we are currently under. It is an MTDES permit issued under the Federal Clean Water Act. This permit specifically identifies that the river has a .1 phosphorus standard on it. Because the river is a polluted or phosphorus and nitrogen loaded stream, we have to meet that permit level within our permit. The issues we have raised in both the municipalities to the Environment Department and as late as Monday of this week in Santa Fe because the EPA are the ones that will levy the fines against us, we have essentially told them even if the city were to put a phosphorus reduction facility in, you are still going to have pollution in the river. We don't put pollutants in the river at the discharge point and they swim upstream; it is a watershed problem throughout the valley. The EPA and the Environment Department are acutely aware of that; they have indicated that to us several times. The reason they indicate that to us is because non-point sources are things that the Environment Department can't control; cities control it. They can control the number of people putting water into the underground aquifer and septic tanks. State law requires cities to hook people up to sewer systems when sewer becomes close to their places. These are all issues we have dealt with in the past. The problem is we have been wandering along hoping the EPA would delay the standard. We found out Monday that there are very few options available to us. We were told we need to make a meeting with the division director over permitting for the Environmental Protection Agency in their Water Protection Bureau. We will have to take to them the evidence we have that we are trying to clean the pollution in the entire river. I will tell you that the Environment Department has identified the non-point sources as being many things but one of which is in polluting septic tanks immediately adjacent to the Village of Ruidoso and the City of Ruidoso Downs. That includes Agua Fria and eastern areas of town where there has already been water contamination detected in both the river and the shallow aquifer as well as the Eagle Creek area and some of the outlying areas of the Village of Ruidoso. These areas are within reach of our part of the sewer system. However, if we hook people on, the moratorium that stands with the City Council is that these people have to be within the city limits. We have issues with individuals that are outside of the city limits that will not pay for the services they are receiving. This means your citizens that live within the city limits are paying for the services outside the city limits. You are paying for them and have been for some time. That is a serious issue physically from my standpoint in that we do provide services out there and receive no revenue to pay for those services. We receive requests for those services on a regular basis that we have to turn down. One in particular, this winter alone which was a particularly mild winter, we turned down fifteen calls from the Agua Fria area alone asking for snow plowing services. We cannot provide that; it is outside of the city limits and I have told those individuals that it cannot be provided. Other things we do provide out there, we respond frequently with the Police Department. As Chief Logan will verify, there is a significant amount of time that our officers are both responding to calls east of town as well as holding the sites and securing them for the Sheriff's Department who may show up in ten minutes or an hour or three hours later. I would like the Chief, if the Mayor would allow, to speak on this issue.

Chief Logan said over the last two years the Ruidoso Downs Police Department has responded to approximately 129 calls for service in the area between the eastern city limits and the far side Rocky Mountain Trailer Park. These calls for service we have responded to have been emergency in nature. The Ruidoso Downs Police Department doesn't normally have jurisdiction in that area, however, if the Sheriff's Department or New Mexico State Police request that we respond then we do so. Our purpose is to get on the scene, try to secure the scene until either a deputy or a state police officer who has jurisdiction and can make a report or arrest or whatever action necessary to take over. Sometimes the Sheriff's Department responds from Carrizozo or as far away as Corona so it takes some time to get out there. The 129 calls for service, if you compare this with similar calls we have answered within the city, that comes out to about 8.5 percent of our calls. I would like to say the city last year handled approximately 3,900 calls for service; however, many of those calls were not of an emergency nature. Although it shows 8.5 percent, you have to take the calls for service we responded to east of town and compare them to similar calls here in town so you get a more fair comparison.

Administrator Waters said I have also asked Chief Logan since he is over the Department of Public Safety to talk about our response in the fire area. We do respond; we have mutual aide to respond within areas of this annexation area. We are required by contract to provide water for fire protection in Agua Fria as most of you are aware. What most of you may not be aware of is we have been putting water out east of the Agua Fria area. We have been providing a substantial amount of water. We do that because we feel like those folks are our neighbors. Basically if there is an emergency out there and someone needs water, it is our good graces that allow that water to go out there. However, it is the citizen's water; you pay for the maintenance of that system, you pay for the fire hydrants and you pay for everything else with your rates. You also pay for it with your property tax to put new fire hydrants in and new water lines in. The new gross receipts tax increases, your businesses pay for that to help improve the infrastructure in the area. Currently Agua Fria is not contributing to property tax, infrastructure gross receipts or anything of that nature. They do have a substantial commercial zone along the highway that continues out to the end of the annexation area which is currently listed as the area that the solid waste facility is considering for purchasing which is the Hamilton property east of town. Essentially, it is a line along the highway of businesses which will have access to the sewer service that is sought by approximately 65 percent of the land owners and I am talking about acreage in this area along the south side of the highway. We have a letter in front of you now from the largest individual in that area that is requesting these services. These services the city believes are necessary for reducing the pollution in the valley. This is something we can do to show the EPA that we are serious about trying to reduce the pollution in the valley. Both the Ground Water Bureau has been calling the city expressing there is ground water contamination. The Surface Water Bureau has told us in the form of our permit there is pollution in that area and we need to do something about it. Bottom line is we have to go in two weeks; the mayor, myself, our attorney and our colleagues from Ruidoso to Dallas. We have to stand before the EPA Division Director and possibly his staff to ask for a delay for that standard on the river to give us time to try to reduce the pollution overall in the entire river. We have to bring something with us; we have two weeks to do this. What this process does, it does not annex anything, it simply allows the State to handle the process. It is going to be a public process. There is going to be a lot of input both ways and this is going to be the opportunity for folks to get a neutral, unbiased judge to sit over this and listen to the merits of both sides. Essentially, we have to start that process. I have to take something in my hand to Dallas. Now if perhaps the State denies this petition request,

which they well might do, we go to the EPA and say we tried. We are trying to fix it but the State denied it based on the merits of the case so we are going to try something else. We have to show them something we have done. Right now, there are very little things that we can show them. This is a serious statement by the City of Ruidoso Downs that says yes, we know there is a problem in the Rio Ruidoso. We can't, the City of Ruidoso Downs nor the Village of Ruidoso, afford the deadline that comes January, 2004 which is a \$25,000 a day fine per incident; we can't afford any part of that. We know it will take two to two and half years to build a phosphorus facility. Even if they reduce the fine, they can't reduce the fine to zero; that was a misconception by a lot of folks up to now, the Environment Department included. The EPA told us they will not reduce that down to zero; they will fine us if we violate the permit. Even if they reduce the fine down from \$25,000 to \$1,000 a day per incident, that equals \$365,000 a year that is something neither town can afford and all that does is go to pay for bureaucrats in Dallas. It goes towards no infrastructure; it doesn't improve the situation in the river, it doesn't pay for cleaning up the Rio Ruidoso making it algae free. It doesn't do anything; all it does is improve the pocketbooks of the EPA regional office in Dallas. We will lose that unless we get a chance to go before the division director of permitting. As I said, that is going to happen possibly as early as the first week of August and as late as the second week of August. This is necessary to show that we are pursuing that and I am asking the Council at this time to pursue this annexation request with the Public Boundary Commission, turn this request over to the State, let them make the decision and let everyone attend those public meetings and in fact encourage them to attend those public meetings that have any kind of input on this issue. They will make the decision; the City Council is then absolved of that decision other than requesting it. One of the Public Boundary Commission members that I spoke with said they do one or two meetings in the area. They do advertise thoroughly; we will have those meetings posted at City Hall if anyone is interested in that. I will make sure it is on the website. I want as much input as possible. It has to be started now. The other problem I have is the Public Boundary Commission basically has a schedule they have to follow. In addition, all of their posting and advertising requirements, they then have to have their public hearing requirements which occur the following month. Then they have some administrative procedures. By the end of the administrative procedures, we are into December, possibly January. By that time, it is too late. The EPA doesn't have anything to show for us going forward in this area. It is very important for the reasons of the environmental problems we have within our watershed as well as the fact that the city is providing services in that area, we need to share with everybody that is using them that the Council approve this petition to allow the Mayor to go before the Public Boundary Commission and let them decide on the annexation of these properties.

Councilor Garrett said I want to make one correction to the map and I spoke with Mr. Waters briefly when I got the map. It shows that the south side of Colorado is in the city; it is not and that needs to be included. We have a fire hydrant up there. We have residents on water and sewer both in those properties and I just want to make sure that is corrected before we hand it to the proper authorities if we choose to do that.

Mayor Miller asked for a motion to approve Resolution 2003-16. Councilor Garrett moved to approve Resolution 2003-16. Councilor Miller said I have some problems with this but after I talked to the attorney and Mr. Waters; I had a bunch of calls this afternoon urging me and every call I had was for this. The thing is we are not making the decision; I want the people to realize that. It is just a resolution; the State Boundary Commission will make the decision. I am going to second her motion.

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

Mayor Miller stated next item on the agenda, consider approval of Resolution 2003-17, Fiscal Year 2003-2004 Final Budget, on file.

Motion was made by Councilor Morales and seconded by Councilor Miller to approve Resolution 2003-17, Fiscal Year 2003-2004 Final Budget. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

OTHER BUSINESS

Administrator Waters said I am pleased to announce that the City of Ruidoso Downs at the generosity of our new governor has given Ruidoso Downs \$500,000 towards our part of the expansion of the Ruidoso/Ruidoso Downs wastewater facility. We received \$500,000 as did the Village of Ruidoso; this goes towards the expansion of that facility. It is very important that we do acquire these resources; both Ruidoso and Ruidoso Downs did apply for funding through the governor's office. The governor indicated to us in his meeting he anticipated approval if the legislature appropriated monies for additional improvements to the plant, he would sign them as well as other water and fire projects in this area. The governor is very high on this Rio Ruidoso valley area. He certainly wants to see both our forest protected as well as our water and watersheds. We are going to take him on his word. I have talked with the mayor and he has written a letter of thanks to the governor. If you run into him or have a chance to call him, tell him thanks because half a million dollars is hard to come by. That is one CDBG grant that was handed into our laps. We really appreciate the governor helping us out. It goes a long way with our 15 percent of that facility; \$500,000 is a big help for the citizens that live in Ruidoso Downs.

PUBLIC INPUT

Barbara Green said about two months ago it was brought to my attention that Councilor Morales works for the firm that represents Ruidoso. My first reaction was shock because, to me, this is a conflict of interest. Maybe I am not seeing all of the aspects of it but it is conflict of interest. She is privy to information that is confidential that can be very helpful to Ruidoso but hurtful to us if it leaks out. Over the months that I have been coming to the Council meetings, I have observed Councilor Morales. I have seen how she has voted and some of the comments she has made which brings another question to mind. I know I can't get a response tonight but I would like to request a response by maybe the next Council meeting. I would like to know where your loyalties lie; do they lie with the company you work for that provides your livelihood or do they lie with the community that you are suppose to represent and live in and can I get a response by the next meeting.

Councilor Morales said I will respond to you right now, Barbara. First of all, we very seldom have anything in an Executive Session that deals with the JUB. Second

of all, the attorneys at our office do not let me have privy to anything that involves the Village of Ruidoso and the City of Ruidoso Downs. You can call my office and talk to Mr. Rennick and you can ask him. Anything that involves the Village of Ruidoso with the City of Ruidoso Downs, I am not allowed to work on. I realize that is hard for you to understand but there is what is called a Chinese wall in the attorney's office. Secondly, I do not appreciate you attacking me in public. Why not call me at home or visit with me. Barbara Green said I sent a letter to the Mayor. Councilor Morales said the Mayor is not my boss. Barbara Green said well, maybe I don't understand the Chinese wall or whatever that is because I don't work for an attorney but I am just a private citizen and I think it is conflict of interest. I don't understand why you haven't recused yourself from executive meetings when anything is discussed that could be hurtful to Ruidoso Downs if Ruidoso finds out about it. Councilor Morales said Executive Sessions are not discussed outside of the room. Barbara Green said that is not true. You cannot tell me that there haven't been leaks. Councilor Morales said I know there have been but it doesn't necessarily involve the Village of Ruidoso. Mr. Mayor I would like to request that we move on; I think this is totally out of line. Barbara Green said of course you would and I will get up and leave.

Susan Goodrich said I live on Burke Lane. I am here to request that the Council as of the next meeting take into consideration the condemnation of the property on Thompson that my property basically is across from. I have brought pictures for all of you to see of the view from my house of the shack, of the squatters, of the garbage, of the numerous broken down vehicles that these people keep on their property. These people do not have utilities. They live up there. I would like to pass these pictures around for all to see. They are currently building onto this shack. As far as I am aware, there is no building permit. It is health hazard. We have a criminal element up there. Something needs to be done. We can't sell our property. We have had realtors look at our property and say until you get rid of this problem, forget it. My neighbor who is here also and my husband; my neighbor is worried to let her child walk the street because of the criminal element that is continuously up there. In the past three years since these people have been up there, there has been a meth lab and it is my understanding in the last two to three weeks when Mrs. Virden was kind enough to come up and look and the manager and the police chief, they found other people up there of criminal element who were arrested on outstanding warrants. They only show up between the hours of four to five in the evening and they are there all night. They leave in the morning. We have not much control going on up there and something needs to be done. There are three broken down semis on that property. They say they are in the process of cleaning this property up. They are just putting all of their garbage in the semis up there now. I can't do anything with my property. I have a \$70,000 piece of property worth nothing because of that property over there. I want it condemned. Something has to be done. I would like it to be considered to be on the next meeting and be given a ten days notice. No one seems to know when they received that notice to know when their ten days were up to send them their second notice. I would like to know when that was received by the property owner. They were told they are not allowed

to live up there but every night they are up there living in the shack. They allow people to live in tents there and in the shack. Something has got to be done. We want to be a city; we want to grow; we want our property values to increase. This isn't the way. You let things like this go on and everybody else says you got a dump here, let's put another one over here.

Mayor Miller asked Chief Logan to tell her what the process is on that. Chief Logan said the Department of Public Safety has been taking every step we possibly can to address each and every issue that has been brought to your attention. We did do a raid on a meth lab about two weeks ago on that property. Of course, that is still being investigated. Criminal charges we are hoping will come soon from the New Mexico State Police who is the lead agency in that investigation. I know that the property owner has met personally with me and our officers and he, too, is making an effort to get the property cleaned up. He has actually legally been blocked at this particular point and time by the tenant but we are doing everything we possibly can to address this issue.

Susan Goodrich asked what about the additional uncoded walls they are putting up on the shack to hide all of their garbage behind. Chief Logan said if they are making buildings there and they are not permitted, we will take action to make them legally quit. Susan Goodrich said they do all of this at night when everyone else is done with their job. It has to move along and get handled. They have no running sewer so they use the grounds for a bathroom. This is what we are living in. We have children in the area; there is a family trailer park on the other side. It has got to be dealt with; it just can't be dropped off. I don't know what the procedure is but I would like, if possible, to be considered on the next meeting if it is not cleaned up, condemnation and action taken so that the city can take control of the property and clean it up. Myself and others think it would make a great city park.

Mayor Miller asked Administrator Waters to respond. Administrator Waters said Ms. Goodrich was kind enough to come in and let us know about this situation that has existed for several years. It has been reported many times. I don't think you have even seen anyone come up there. The Chief did as soon as we reported it to him. We have looked at the property and it is a god awful mess. I would hate having that next door. We are trying to pursue legal means as far as the residence and the folks over there doing things that they shouldn't be. I am going to instruct Tom Armstrong who is our building inspector to go down and investigate the walls that are being built right now and any structures that are being built and red tag anything that does not have a permit with the City of Ruidoso Downs. As far as the condemnation procedure, Mr. Bryant can go over the procedure more fully. However, there are notifications and there are other things that have to be done. If it is the Council's wish at the proper time which means after the notifications have been sent out, we can ask the Council to put it on the agenda and consider it if nothing has been done to this point. I don't know what clean up has been done on the property since then. When I drove by, I still saw a lot of the windows that are in those pictures. There are some significant concerns. Water pollution is a big

concern. You bury trash, it leaches, it goes right into what you and I drink everyday. The Environment Department was sent up on this raid as well. They are very concerned. There may be state charges placed on it due to the environmental issues. We have taken this very seriously; we do not tolerate this kind of activity in this town. It has been the Mayor's directive to me to correct it. We are working both through the Police Department and Code Enforcement. Generally, condemnation is the last procedure. It does involve substantial amounts of money by the city to go up, clean it, take care of it, sell the property and recover the cost from the sale of the property. We will talk about this if it comes before the Council. Essentially, it does ask the rest of the citizens to pick up the tab. We would like to see the person responsible for it, do it by themselves first within a reasonable time considering the problem that is there. In other words, if there is a bad problem, we are only going to give them ten days to clean the mess up, and then we are going to take care of it. We may have some legal issues with things being filed against us at this point to keep us off. There essentially are some problems with the health, welfare and the community environment that we have to consider. If it is the Council's wish, we can put that on the agenda and we will definitely consider it if we cannot get remediation the other direction we are taking. It does cost monies, so be aware of that Council. We will have to do an evaluation. There will probably be a preliminary one through the Public Works Department as far as the clean up goes. That does not mean they are going to do it that just means this will be the cost to have someone else clean it up. We will probably have to hire a contractor to come out and do it. That price will be presented before the Council in addition to possibly some appraisal values of the property to make sure what we put into it, we can get back out of it to recoup the cost for the citizens.

Susan Goodrich said would it not be cheaper for the city to in effect clean up that property then possibly buy mine since no one else will. It is not that I want to move; I would like to be able to know that I have the freedom to and not be trapped because I can't get rid of my property. Also, the Council members need to know since I have made everybody aware of this, they have brought more vehicles on that property. There are two more on that side driveway. They are not hauling anything off; they are just loading into those non-running dump trucks to hide it.

Councilor Miller asked if this was a business of some kind. Susan Goodrich said no, it is private land. Councilor Morales asked exactly where this property is. Susan Goodrich said go to Harris and take a left, go down to the next stop sign which is West Street, right on West, left on Burke and Thompson is that little road right there. Half of those pictures are on Burke going down in front of my house and the other half is going up Thompson. It is bad and the criminals are in and out of there constantly. They are not supposed to be there at night; just last night there were lights on in the shack.

Mayor Miller said it is one of our priorities. Administrator Waters said can I ask that when you do see people violating provisions of staying over night, would you please report it to the Police Department. They do need to know at any time. I

know some times it is really late at night. They do record it and we do have several agencies involved in this and that is why we need to go through the channels. Essentially it is on our priority list. The Chief is aware of it and we are trying to clean this property up as fast as we can which is our goal. Susan Goodrich said we have reported it a few times and we were eventually told we cannot stop them from being there. That is what two of the officers told my husband to his face. I did not understand that at all because I was told they could be up there cleaning things off only and other than that they were not to be living up there at all, yet they are.

Rhonda Vincent said I am here to praise you for listening to me those of you on the Council and the Mayor. For the past years and years I have begged and pleaded for help. I am a property owner out on Highway 70 that is needing all of the city benefits that you provide. I need them desperately. I am just here to thank you each of you for listening to me and for helping me. I also want to thank Chief Logan for his help and assistance with the county officers that have been to my park. I also want to thank Chief Badjar who has also responded to my park. Two years ago I had a mobile home catch on fire and his response was much quicker than the Glencoe Fire Department which I am not disrespecting them at all. Please don't get me wrong but they did respond faster and my trailer park would be up in flames right now if the Ruidoso Downs Fire Department did not respond. I am so thankful to you and to your men for that as well as the Police Department helping the county. I just want you to know how much I appreciate it and there several others that appreciate it and I am their voice to praise you because I am thankful for that because now I may be able to survive. I may be able to continue my business because of your concern for what has happened here tonight. Mayor Miller thanked her and said we appreciate it.

Pappy Bell said I would like to reiterate what Barbara Green said about Margie. With everything she explained to the Council and to the public, I personally would like to ask for your resignation. Thank you.

Councilor Olivo said I object to that because Margie has been here for ten years and if people didn't like for her to be in office, she wouldn't be in office.

Johnny van Winkle of Circle B said Rhonda said it for all of us. We are really excited about being annexed out there. We need the service. There are people out there that are not paying for what they are getting so everybody needs to share the load the way I look at it. We are excited about it and that is all I need to say.

Debra Ingle of Lincoln County Solid Waste Authority said we had our Board meeting today. LCSWA is trying to get out of the heart of your city as fast as we can. We know the complaints come in to you and they also come in to us. We have looked at the property you are looking at annexing. It is the last property east on your map and we appreciate it. The Board of LCSWA is in full support of this as well as I. We need the sewer and we need the services. We have been here for twelve years. We have had your police services and fire services when we needed

them. They have been there. The alarm goes off, they jump the fences for us; they have done everything. We want you to know through Lincoln County Solid Waste that we appreciate it.

Warren Beaver said the bridge you tore up the other day and I don't have the petition but I have some information. I being one of the six is going to request that you rename Parker Road to Suicide Lane. I nearly got run over twice today at the bridge and the traffic is horrendous. There is going to be an accident down that road if something is not done. Mayor Miller asked what caused the increase in traffic. Mr. Beaver said the trailer park put in at the end of the road. One day I counted twelve vehicles pull up and circle in my driveway and pull back out. They don't know it is a dead end road. Then a trailer house moved in the other day and caused a bunch of; I am real calm today. And your water situation, a lot of people don't understand it. I was involved in a city that was quite a few years old and the sewer plant had never been completed. Yes, Mr. Waters we had to get high behind or shut everybody off of water. Our septic tanks, our utilities across the river, we really are not worried about. Of course, when we do away with the septic tanks I will agree. If we could fix our roads, we could tolerate a lot. The chief, the fire trucks and ambulance have been to my house numerous times and not because of disturbance. But, I understand they have been to the far end of the road for disturbance several times. You need to address it because there are five people over there that are really getting pretty hot.

Administrator Waters said the issues Mr. Beaver has brought up are important issues. The bridge infuriated us when it was damaged. We had just got a lot of congratulations on the good job our public works did and then all of a sudden there is \$5,500 of damage done by one bulldozer that was brought across two or three times to pull a trailer, I believe, which is rather an unorthodox way to do that. We are pursuing that; it is going to be fixed. It was substantial damage. Mr. Mosley, if I am correct, those beams are about \$180 a pop. They are 4 x 12's, very expensive pieces of wood to get. We have to special order them and bring them in. The problem is we lost a whole bunch of them. We are pursuing that through both the Police Department as well as we created a bill to send to the individual responsible for it. We are going to have that fix and we are not going to let that happen again. As far as the road goes, I have instructed Mr. Mosley of the Public Works Department to begin Parker Road construction that will be paved with a chip seal. We are going to have speed bumps on both sides of that bridge because I almost got run over the other day sitting by someone who cruised across that broken bridge at probably 35 m.p.h. We will have some slowing structures to make people control their speed. I would also instruct the Police Department to patrol that area and make sure we cover that. There are some teenagers that live out there too, not that they are the only ones, but there was a Corvette that just about ran me into the river the other day.

Dorothy Dale of Dale's Furniture said I have a couple of questions regarding the sewer plant. As the status is right now, it is running past capacity. Administrator

Waters said at times it exceeds its design flow. There are certain weekends where there are a large numbers of individuals here that it does exceed its peak flow but it does meet its current permit as I understand. That is one of the reasons the governor awarded us money for expanding it because we know there are more people coming here. We know there are more people hooking up so yes, it is necessary. I believe the mayor and the former mayor of Ruidoso both identified the expansion as their top priority. It has been a top priority for the Council the last few years.

Ms. Dale asked what has been done the last few years. Administrator Waters said at least as long as I have been here I can tell you they have improved the solid handling facility. That is the solid stuff left over after you pull it out of the liquid stuff. They have improved that somewhat so they can actually have more of it on site to dry. We live in a wet area which requires longer times to dry this stuff. They are installing a polymer system. A polymer system basically injects a chemical polymer into the liquid to help congeal the material that is in the solid material that is in the wastewater so it essentially dries faster. Ms. Dale asked right now the sewer plan is not adequate. Administrator Waters said the sewer plant needs to be extended. Ms. Dale asked we have \$500,000 given from the state. Administrator Waters said we actually have \$1,000,000 given by the state. Ruidoso and Ruidoso Downs operate it together and that is dedicated towards the expansion. Ms. Dale asked for adequate and future expansion, is the \$1,000,000 going to pay for the expansion. Administrator Waters said that \$1,000,000 will go a long way to start; we have phases. Here again, we are trying to not be forced to do a \$8,400,000 phosphorus treatment. That has nothing to do with the expansion of the plant. It is a little thing that was stuck on us after the fact. We want to expand the plant and we do have the ability to do the expansion. Ms. Dale asked what is the time frame. Administrator Waters said starting almost immediately. This year there are plans to start doing the projects. Ms. Dale said cut to the chase; when are we going to look at a plant that is serviceable for Ruidoso and Ruidoso Downs and people that are tied onto the sewer. Administrator Waters said two to five years when the construction will be complete. Here again, this is only pieces of the plant that will help hold more people here in the entire valley. It is a long, ongoing process. Ms. Dale asked if this is a band aid. Administrator Waters said no, it is made for projected thirty years into the future. What they do in the next five years, you won't have to mess with that for another twenty to thirty years. That is what we are going for and they are counting growth for the entire valley. The engineers have been instructed to do that.

Ms. Dale said I understand that there is going to be a state committee that will come and listen to everybody concerning the annexation. I assume this is appointed by the governor and go to different parts of the state similar to situations we have right here. Do we have a tract record of how often they do or not? Administrator Waters said not with this current administration; they were just elected beginning of this year. The Public Boundaries Commission has been in business a long time and has been in the state statutes for years and years. Ms. Dale asked what has it been in the pass, more or less. Administrator Waters said I have no idea on the figures of those; they do sometimes and they don't other times. It is just if they determine it is in the

best interest for the State of New Mexico, the environment and then they make their decision based on that.

Jim Burrow said I live on Colorado Street but I have several friends that live on Parker Road on the north side. I agree with Mr. Beaver we really need to do something about that road, about that bridge. I would like to see, and I have talked to Mr. Armstrong about this, some way or another that we can get that road on the north side of the river to come all the way through to where it hits that road in front of the Sports Theatre. One of these days if something is not done there you are going to have a fire which there is no way to get out except the Parker bridge. I understand there might be a little emergency road through there but somebody has to be there to keep the gate open.

Also I understand that over there on somebody's property where this trailer might have went through, that we are having sewer problems over there with septic tanks. There are several trailers already involved with septic tanks up there. If we keep moving trailers in there, those things are going to be dripping down into the river, seepage from the leach lines. I would like to see that more investigated before any more trailers move in there. I want to thank the Council for what they have been doing on grants this past year; we need it. Mr. Waters and Carol have done a fantastic job.

Bonnie Richardson said Mayor, Council and Mr. Waters; I have two questions for you. One is did the Council finish new business tonight and all answered yes. My second question is what percentage of Ruidoso Downs did you say we qualify to be considered for CDBG lower income grant. Administrator Waters said 51 percent or above is the magic number and if that number is designated by the census, it becomes the magic number for the next ten years. Mrs. Richardson asked is that where we are right now, 51 percent? Administrator Waters said 54 percent. Mrs. Richardson said my husband and I have property in Agua Fria and we also have property in Ruidoso Downs. We live in Ruidoso Downs. The property in Agua Fria, I appreciate having fire protection, having police protection and of course, our water but I know that property is contributing to our sewer contamination because we are on septic tanks. No way is it fair that 54 percent of low-income people in Ruidoso Downs, a lot of who are on fixed incomes and it is hard for them to make their grocery payments every month let alone medical. Why should those people subsidize my protection in Agua Fria. The county will not pay Ruidoso Downs to provide that service. The county will not send money to another entity, therefore, we do without or it is so late that it doesn't do any good. No way is it fair that low-income people subsidize for our services and it has been going on for years. In spite of the fact that my taxes will go up, that's O.K. because we have been served by the citizens of Ruidoso Downs long enough.

EXECUTIVE SESSION

Mayor Miller stated I would like to entertain a motion to go into Executive Session pursuant to Section 10-15-1(H)7, Threatening and or Pending Litigation and Section 10-15-1(H)8, Real Property and Water Rights.

Councilor Miller made a motion to go into Executive Session stating that nothing will be discussed except threatening and or pending litigation or real property and water rights. Second by Councilor Olivo. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated I would like to invite Administrator Waters and Clerk Virden to attend the Executive Session and closed the regular meeting at 6:57 p.m.

Mayor Miller opened the Regular meeting at 7:34 p.m.

Councilor Morales declared that nothing was discussed except possible action with regard to threatening and or pending litigation and possible action with regard to real property and water rights and no action was taken.

Mayor Miller stated first is possible action to be taken with regard to Section 10-15-1(H)7 Threatening and or Pending Litigation. Died for lack of motion.

Mayor Miller stated possible action to be taken with regard to Section 10-15-1(H)8 Real Property and Water Rights.

Councilor Garrett moved to purchase approximately 15 acres plus of property for \$230,000 on the Rio Ruidoso as well as 15.5 acre feet of senior water rights in that area with the agreement that the conditions of the purchase agreement are satisfied and there is a cash down payment at closing. Second by Councilor Morales. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Administrator Waters said I have three other water rights purchases that we are talking about through Mr. Kenneth Nosker who is the agent. He is representing three individuals for the purchase of senior water rights east of Ruidoso Downs. This amount comes to 14.176 acre feet of water. Of course, there are some transfer amounts and things of that nature. Essentially what we are looking at is a per unit price of transferred water rights of \$5,600 per acre foot of water rights transfer with an earnest money of \$1,000 per individual involved in this. Therefore, that would be \$3,000 if the motion should be made to approve the purchase price of not to exceed \$79,385.60 for the purchase of these three offers of water rights that amounts to a maximum of 14.176 acre feet of water to be transferred and all of the conditions of the agreements shall be met.

Councilor Garrett so moved and Council Miller seconded. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Councilor Garrett announced that Tony Elias had sent her information on the next meeting for the Blue Ribbon Tax Reform Commission having to do with my business more than anything else. If anyone would like to attend it is really going to impact the whole state depending on what they do. It will be in Santa Fe, July 29th is the Equity Committee but the Selected Excise Tax Committee is July 28th.

Administrator Waters said this is the gross receipts issue. The Blue Ribbon Commission is going to be reporting to the governor on whether to take the municipal gross receipts on groceries, pharmaceuticals, etc. If you buy something, they are trying to have exemptions for certain categories that are going to be exempted from contributing to municipal gross receipts tax to help run the cities. They have not adequately, at least in my opinion, shown us they are going to replace that with something to help us with the budget. I would encourage all of the Council to pay attention to that and even the public because it is going to be an issue. All of the cities in New Mexico are going to be affected by it.

Mayor Miller entertained a motion to adjourn. Motion was made by Councilor Garrett and seconded by Councilor Miller to adjourn at 7:40 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer