

MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
AUGUST 14, 2003

The Council of the City of Ruidoso Downs met in regular session on August 14, 2003. Mayor Miller called the meeting to order at 5:30 p.m. and asked Dr. Worth 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
Ken Mosley, Public Works Director
Robert Logan, Chief of Police

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES OF JUNE 26, 2003 REGULAR MEETING

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the Minutes of the July 24, 2003 Regular Meeting with one typographical error on Page 6 to change "ability" to "facility". 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 Garrett to approve the Accounts Payables. Roll call votes: 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 Garrett to approve the following reports:

Fire Report	Animal Control Report	Maintenance Report
Court Report	Code Enforcement Report	Public Works Report
Police Report	Permits & Licensing Report	

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

UNFINISHED BUSINESS

None

NEW BUSINESS

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve awarding Bid No. 04-001 Annual Contract for Base Course to Bonnell Sand & Gravel and Ruidoso Paving for base course picked up and to Bonnell Sand & Gravel for base course delivered. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve to advertise Bid No. 04-002 materials for water line replacement - Allison Road, 2003 CDBG 03-C-RS-I-G0-19 Colonias Emergency Water System Project. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve purchase of Prisoner Transport Unit for \$50,400 budgeted from Local Government Corrections Fund. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, consider approval of Personnel Recommendation of Police Officer position. Chief Logan said I would like to recommend Robert Denny to fill a vacant position with the Police Department as a police officer. Mr. Denny comes to us highly educated; he has his Bachelors degree in Criminology and his Masters degree in Forensic Science. He has about ten years experience as a police officer. Some of that experience has been with the L.A. Police Department as well as Marietta, Georgia Police Department right outside of Atlanta. For the last year and a half, he has worked for the Coconino County Medical Examiner's Office in Flagstaff. I think he would be a great asset for our department and community and I would like to recommend Robert Denny for hire as a police officer. Mr. Denny is certifiable by waiver so we have to send him to Santa Fe for three weeks instead of 22 weeks.

Motion was made by Councilor Miller and seconded by Councilor Olivo to hire Robert Denny as police officer. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Council Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, consider approval of Personnel Recommendation of Communication Detention Officer position. Chief Logan said I would like to recommend the hiring of Ann Ella Hatter as Communications Detention Officer. Ms. Hatter is a New Mexico Law Enforcement Academy Certified Dispatcher. She did work for the City, back then the Village, from March of 1996 to February 2001 in this position so she would be coming back into the position that she knows. She will be able to step right into the position as a TAC officer which is a person that takes care of the NCIC criminal, takes care of all the paper work and audits that have to be done. We won't have to send her Santa Fe for retraining; she can get all of the updates she needs here. We will have to send her to get her EMD certification updated but that is not a problem. She is the best candidate we have and I do recommend Ann Ella Hatter to fill this vacant position.

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the hire of Ann Ella Hatter for the position of Communications Detention Officer. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Council Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, consider approval of Personnel Recommendation for the position of Temporary Laborer. Public Works Director Mosley said I would like to recommend Larry Boothe for the temporary laborer position in Parks & Recreation. He has some experience in outdoor lawn and gardening and he seems to have a real strong ambition to work with the City.

Motion was made by Councilor Miller and seconded by Councilor Olivo to approve Larry Boothe for the position of Parks and Recreation Temporary Laborer. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Council Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, selection for a Voting Delegate and Alternate for the 2003 Annual Conference Business Meeting in Farmington, New Mexico.

Motion was made by Councilor Morales to appoint Mayor Miller as the Voting Delegate and Susan Garrett as the Alternate. Second by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Council Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, Water Conservation Update. Administrator Waters stated in your packets you have a table from our Public Works Director, Ken Mosley. I will let Mr. Mosley explain this but essentially things are not going up as fast as we would like. We need lots of rain and there is lots of usage. He then asked

Mr. Mosley to explain the graph. Public Works Director Mosley said the graph you have is for residential water usage. As you can see from June 1 to July 1 the system used about 200,000 more gallons of water than we typically do. As far as the natural production, we are showing a 30 percent loss this time and the reason is because the springs have overflowed more this time. We have caught up in the middle of the night and it has overflowed a few times. We are still working on the meters and we will install one of those meters tomorrow to take care of those readings and the other one is on order. I think the conservation is doing pretty good.

Councilor Morales asked as compared to last year. Administrator Waters said it has improved over last year. If you notice on the graph at the time when you initiated the Water Conservation Ordinance which was the 8th of June of last year, you can tell it has done quite a bit of good. The water conservation is working and what we are looking at right now is essentially continuing the situation we are in. We haven't received enough water to show an increase in spring production. I don't anticipate that to occur unless we see some good snowfall this winter.

Mayor Miller stated the next item on the agenda under New Business is the Joint Community Center and their delegates. Paul Worth said I am a twelve-year resident of Lincoln County, a parent and also a high school principal. I do represent a group of several hundred citizens of Lincoln County including many from the Village of Ruidoso and the City of Ruidoso Downs. We are a grassroots group that has one goal who hopefully, through collaboration, develop an intergenerational community center for Lincoln County. Our concern is that there has been a lot of need assessments conducted for the county for various entities within the county. We as a group started off two and a half years ago and called ourselves Lincoln County Child Abuse Task Force. We met for six months and had lots of programs and need assessments. The number one item we looked at countywide was the need for an intergenerational community center. From there we decided to look at the possibility of going privately and looking at the possibility of a YMCA for Lincoln County. We spent about six months as a task force looking at that issue and actually brought consultants in from Chicago to see if it was feasible. The conclusion was that it is a great idea for a YMCA but it just wouldn't work in this area; that is the advice that we got. We are persistent so again we have been meeting over two and a half years. Our next strategy is to work with all governmental agencies to see if perhaps together, the county, the village, the city and all other governmental agencies within Lincoln County could possibly get together to look at solutions for a Lincoln County Community Center and by that I mean facilities and programs and the possibility of satellite facilities; I think the possibilities are endless. What we hear and we are just grassroots folks, I can confess I don't know that much about what is happening governmentally, the need assessments over the last five years from our fellow residents is that a community center is something that is wanted. The barrier is always money. We know there are issues with water, waste treatment, on and on. Our hope is that the real solution to recreation, water and the other issues we face is perhaps collaboration, communication and cooperation. We have previously talked to the Village of Ruidoso, the Mayor and their Village

Council members and I believe they are in the midst of working with the City of Ruidoso Downs and other governmental agencies encouraging all folks to get together on September 8th at 5:30 p.m. at the Convention Center. I believe Mayor Eggleston of the Village of Ruidoso is in the midst of writing correspondence to invite all governmental agencies and we do recognize, Sir, your letter of support you sent to me, your interest as the Mayor and your concern for youth and recreation. I basically wanted to share with you what our group was doing. We are hoping come September 8th, Mayor Eggleston will be the host and will have lots of folks from different governmental agencies at the Civic Events Center in Ruidoso. We, as a community group, are going to present for about thirty minutes and we will try to be real quick to talk about the needs and the possibilities and hopefully open up a forum for folks in Lincoln County and for governmental officials. Our real goal at that meeting is to shoot for a task force to be appointed that day, perhaps a member from each governmental agency, school district, etc. to look at the possibilities of programs, facilities, funding and hopefully report back within five to six months what we might be able to do collaboratively to improve the quality of life for all citizens of Lincoln County. That is my brief presentation. We have some other folks here and asked if they would like to comment.

Bobbie Wise said some of us from this group have had the opportunity to visit Fort Worth and also Deming which would be more comparable to us than Fort Worth. In Fort Worth it was just an amazing town and county. They were the worst county in the state and they have pulled together to do a lot of what we are talking about. They worked together in such a collaborative effort; their law enforcement, their councilmen, their superintendent of schools, just on down the line all directors of all different programs. They meet on a weekly basis which would be like a taskforce Dr. Worth is talking about. We have been there and have seen it in action and it is just really inspiring when you go there. You see they have fewer resources in their county than we do yet they have been able to pull this together. They have been a role model for us and they are very willing to come visit us and tell us how they did that, what it cost and how they got it started. We are really grateful for all of the support they have given us.

Peggy Jordan said I just wanted to thank you for letting us come. We weren't going to quit but it is hard because we can't do this without Mayor Miller and the Council and the Ruidoso Mayor and their Council.

Mayor Miller said it was an honor to have you here today and make this presentation and asked do we have a committee. Councilor Miller said I am part of their committee but Rene and I did go to Fort Worth. I am familiar with the Deming project too. I have known about it for some time. I didn't get to go July 1st with the rest of them but I know what a wonderful job they have done for their youth and their whole community. The police force there said they have almost run themselves out of a job. This is a project I think the whole community would show how much the officials care about the children. I can't see why all businesses wouldn't be supportive because of what an asset it would be.

Mayor Miller stated next item on the agenda under New Business, consider requesting staff to place Ordinance on the next regular scheduled meeting in regards to increasing number of City Councilors on ballot for Municipal Election to be held on March 2, 2004.

Administrator Waters stated at the request of two councilors and you in looking at this question it was decided to put a discussion item on the agenda for this time. Of course this would require an ordinance which means there would have to be a Public Hearing in the future. In relation to this Councilor Olivo had also requested that we look into the possibility of districting or creating wards for the City of Ruidoso Downs. These two items kind of go hand in hand. Dan has looked into the legalities regarding both of those requests and he can explain some of the things he found regarding that request.

Attorney Bryant said I was asked to look at the process by which we would increase the size of the city council. There are two methods provided for in the New Mexico statutes. The first allows the governing body to pass an ordinance that calls for an increased city council. The law is silent on the subject but my recommendation is that you go up by even numbers then the mayor gets to break a tie vote. If you put seven people on the council you in effect cut the mayor out of the process because you have virtually guaranteed, unless someone doesn't come to a meeting, you never have a tie vote. You can go to six members or eight members; the statutory minimum is four and the maximum is ten in New Mexico for Mayor/Council forms of government. To give you a little perspective, I believe Carlsbad has eight, Farmington I think still only has four, Alamogordo has eight so people bounce all over the place in terms of how they want to set it up. Mostly that is up to you in the ordinance process; how do you want it to work and how many people do you want at the table with you.

The second process is our citizenry can circulate a petition asking that the size of the council be increased. The threshold is they have to have signatures on the petition from five percent of the voters within the municipality. We would have to find out how many people are registered voters in Ruidoso Downs, calculate five percent and then the petition would have to cross that threshold.

If you want to tie this to your March 2nd election, the ordinance has to be passed within ninety days of that election or if you pass the ordinance earlier than that, then you have to hold a Special Election within ninety days of passage of the ordinance. On the petition process the election still has to occur within ninety days but it is ninety days after the city clerk verifies that the petition is signed by at least five percent of the registered voters within the municipality. If we want to tie that to the March election, we would have to have that occur not more than ninety days sooner than that.

There are some issues attendant to tying it to the March election. In March you are going to be electing part of this body whose terms are expiring. If you run the election on whether or not to increase the size of the council at the same time you are doing that election, you are denying yourself the first opportunity to elect the new council members and they would have to be appointed by whoever the mayor is following that election. For the first part of their terms of office, we would be having appointed people so if you want those additional members to be elected, we would need to do a Special Election, given an affirmative vote that would increase the size and then they would run for office on March 2nd along with everybody else. The statute is funny because it doesn't spell out how you create staggered terms. It simply says that in the next two elections after you elect everybody you have to make sure you only elect half of your Board and the second one of the two you elect the other half. Whether we do it by ordinance or petition we would have to spell that whole process out. I would recommend that we draw lots on each council position and we would pick which three are going to go with the first two year cycle and which three are going to go with the second two year cycle. The practical effect of that because some people would be starting a four-year term in March is that at least one of those persons is going to get their four-year term cut back to two years and have to run again. We are running enough people in this election now that if we add those two, I don't have an easy three number without cutting somebody's term short so the fair way to do that would be to draw lots. The same is true whether you use the petition process or the ordinance process.

The second question I was asked to look at is if we are going to do that, does it make sense to district the city council or set it up in wards. Instead of everyone running at-large you are running for specified districts within the city. If we are going to do that then it will depend on how many council seats you are going to have. We would have two councilors running from each ward. The way that works in the election code is if you have one seat open in Ward One and you have fifteen people running, the highest vote getter in that election would take that seat. In the next two-year cycle the other seat in Ward One would run. You can't put two positions in one district or one ward on a ballot in the same election so you would have to divide it up that way. If there were six of you we would need a minimum of six wards. The number of districts you have when you set up the districting is up to you. The statute used to have population requirements in it; you had to have so many people in it before you could district. That has all been changed and now the statute says that the governing body has to have a minimum of seven members before you can go to districting. With six council members and a mayor we would meet that threshold. If you desire to district, we can district. If you do the districting process, you bring a host of federal rules and regulations into your municipality and all of the requirements of the Voting Rights Act. We have to identify by census boundary groups and the census has different hierarchies in the census groups that they use to set up the census but we would have to identify the population within each one of those. Then using those census lines, create the wards and we have to be within a certain population spread from ward to ward. I can't have one ward that has five percent in it than another ward because then I am disenfranchising people

because I have one person representing more constituents than another. It doesn't have to be perfectly equal but the O.J. is not going to let me get beyond a three percent deviation from ward to ward and they are going to frown at three. They are going to tell me you have to do better than that. In most instances it is better to get within one-half of a percent from ward to ward. The other thing you have to be careful about is if you have two identifiable communities in your municipality; you cannot irrationally divide those communities. You have to pay attention to who is living in the community and where they are living. You also have to be very careful about all of the minority voting blocks. The census data will give us all of that information. You cannot create your wards to improperly dilute the voting strength of a particular minority group or enhance the voting strength of another group. All of those things you work with a calculator and map and you move lines around, move people around and work with the census boundaries. You develop the ward system and you bring those plans and the governing body will adopt whichever one they thought was right. If somebody thought we were unfair, they would have the ability to sue us. You all read about the legislative redistricting lawsuit that went to Santa Fe. It is the same process; all of the same legal rules and regulations apply. I have done this for Otero County's Commission three times. I did it initially in the 1980's when they were first required to district. I did it again after the 1990 census and I just finished it this last year for the 2000 census. I have a lot of experience in working with those numbers and how to do it correctly so we don't offend any of those rules and regulations. We can accomplish that for you if you decide you want to do that.

The final thing I should put out on the table is you don't have to have all of your positions run from wards. For example, if you expanded from four to six and you decided you wanted to create four wards, you could earmark one council position for each of the four wards and two positions at-large. Alamogordo has that kind of system. The political wisdom behind that is that while it is proper to have individual constituencies represented on the Board, it is also proper to have a prospective that considers the good of the whole as kind of a balancing to that individual representation program. That is also a possible plan that we can design if you decide you would like to do that. That is probably a lot more than you wanted to know but that is a pretty complete description of how the system works.

Just in discussions amongst yourselves as you consider this issue, are we are going to have a Special Election, or we going to do it in March, cut to the chase because that sets some timing requirements for the rest of us. Then we need to get some kind of indication from you about how many positions you are thinking about doing. Of course, the earlier we know what your wishes are on the districting issue the less stress it will be for us to build the districts. It is hard to do when you don't have adequate time to put a plan together and then let it set for a few days and see how it plays. When you are trying to do it all in a big rush, it can get pretty hairy. If you are going to do this, I would recommend that we move rather swiftly and set up a plan that is rational enough to give us time to build everything in a way that will really work well for this town.

Administrator Waters said remember the districting idea can't be considered until that time the citizens approve whichever method is chosen to increase the council. It has to be a minimum of six council members plus the mayor. It does require us to pass an ordinance, however, which means we would have to essentially go through the process of publishing so we need to know fairly quickly.

Councilor Miller asked if we did decide to go to six and had not decided on the districting as yet, that could be on another election. Attorney Bryant said districting is not an election issue; it is a council decision. The final piece you should be aware of is if you submit the increase question to the voters and they turn it down, you cannot submit it again for four years. If you decide this is something you want to do you need to know that if the voters say no, it is not coming back for at least four years.

Councilor Morales asked assuming we adopted the ordinance, when would we have to have the election. Clerk Virden said if Council directs staff to draft an ordinance, the ordinance would be publicized in the paper next week. The Council adopts the ordinance and has a public hearing September 11th then the Special Election would be held November 6th. The November 6th Special Election is probably the most cost effective for the City of Ruidoso Downs. We can have an election thirty days after the Special Election of September 23rd if we did a mail-in ballot. The cost would increase because of the special machine we would have to rent from Ink Impression and we could hold that election on October 24th which would eliminate a lot of the required publications under the election code book. I think it would only be fair to the city that we go through the long process and hold the election on November the 6th because of the cost. Remember we would have to make an increase in our budget for that specific Special Election; that is not included in the regular election in March.

Councilor Garrett said since we are growing in size I would like to see us go to six. I think it gives more opportunity for people who live in the city to participate.

Councilor Miller said we have doubled in size.

Councilor Morales asked Jackie Branum if she remembers why we dropped back from seven to four council members. Ms. Branum said we dropped back because we decided that seven was too many. At the time we could not get people to run. There wasn't the interest and we couldn't fill the seats so we dropped back to four after we had gone up to seven.

Councilor Miller said she asked that this be put on the agenda also because I felt there are more and more people interested. I felt it would give more people a chance to be part of the government of the city.

Administrator Waters said think about it and talk about it amongst your constituents and if you decide it is something that is beneficial, definitely the mayor or you could direct us and we will put it on the next agenda.

Mayor Miller said next item on the agenda is Other Business; is there any other business.

OTHER BUSINESS

Councilor Garrett said as an informational thing to the residents, I want to thank everyone that was involved in the Senior Center breakfast. They served three hundred people and raised \$3,200 towards Meals-on Wheels.

Councilor Garrett said another question I have is after we had the last meeting and there were so many people present in the audience, I think the audience needs to be able to hear what is said. We have been talking about this public address system forever and I just wondered where we are. Clerk Virden said nowhere and I really apologize for it but let me give you a little background. Last fiscal year we placed \$5,500 in the budget for a public address system. I went out for quotes and unfortunately they came in higher than what we had budgeted. We came back to Council and asked for an increase in that particular line item. Unfortunately, the longer you wait the prices go up higher. What I have decided to do is piece the PA system together with assistance from one of our citizens from the community who has knowledge in that area. We budgeted this year \$9,500, I believe, for that PA system. You just have to bare with me and again I apologize.

Councilor Garrett said we had a fire up behind here yesterday and I would like a report on the fire and our fire restrictions. I would also like to thank you. Jim Badjar said we had just under an acre and a half fire yesterday in the drainage in Turkey Canyon. On Tuesday we received just over a quarter inch of rain and it didn't slow the fire down. The one thing that saved us yesterday on the fire was it stayed mainly on the ground and when it hit the ridge top, the wind was up there and it was pushing it back down on itself. If we hadn't received that rain yesterday and the wind wasn't blowing, it could have gotten out of hand real quick. As of yesterday evening there was no cause of determination on the fire. It really wasn't looking towards lightening so we are not really sure yet. I am not sure if the Forest Service is getting a hold of an investigator to look at it. Turkey Canyon is sealed off to the general public; right now there is a gate up there so if it was man caused someone went in through the gate or off the reservation line.

On the restrictions, I would like to see us stay in the same restrictions we are still in due to the lack of moisture and due to the fire brigade we are seeing from yesterday. We cleared the fire about 1:15 this morning and we are still having several flare ups. The line was 100 percent contained and safe. The I.C. from the Forest Service decided it was safe to leave but we are having some pretty good flare ups within the center of the fire.

Councilor Garrett asked if we have a slurry bomber. Jim Badjar answered no; no air support at all. The bomber that was on contract with the Village of Ruidoso and State Forestry was released about a week ago and the helicopter from the reservation is in Idaho fighting fire. They tried to get a bomber yesterday afternoon and it was rejected. Montana and Idaho are burning worst than we are right now.

Councilor Morales said I would also like to thank you for all of your efforts because it was right behind our house.

PUBLIC INPUT

Corina Baca said I wasn't present at the July 24th meeting but I heard on the radio that Councilor Morales was asked to resign. I am just here to say I think you are doing a great job and you are sitting in that chair because you were voted in by the people not only because you do a good job but you stand with the people and not against them. When you are feeling down and depressed if you ever are, just think of the people who voted for you and are with you. Keep up the good work.

Mayor Miller entertained a motion to adjourn.

Motion was made by Councilor Morales and seconded by Councilor Miller to adjourn at 6:19 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer