

MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
OCTOBER 9, 2003

The Council of the City of Ruidoso Downs met in regular session on October 9, 2003. Mayor Miller called the meeting to order at 5:30 p.m. and asked Jackie Branum 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:

Dan Bryant, City Attorney
John P. Waters, City Administrator
Carol Virden, City Clerk/Treasurer
Ken Mosley, Public Works Director
Robert Logan, Department of Public Safety Director

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

APPROVAL OF MINUTES OF SEPTEMBER 25, 2003 REGULAR MEETING

Motion was made by Councilor Morales and seconded by Councilor Olivo to approve the Minutes of the September 25, 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 Olivo 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 Olivo 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

Councilor Olivo stated our contract with the Senior Citizen's Center and Lincoln County expired April 1, 2003. I request we have a workshop before we start negotiations.

Attorney Bryant confirmed that the contract expired as of April 1st. We had an initial meeting on Monday of this week and it is ripe for a workshop if you want to do that.

Councilor Olivo said I have been approached by several citizens that have some input on it.

Administrator Waters stated if the Council wishes to have a workshop, we can certainly schedule one. We have had preliminary meetings with the county. Basically some of the issues discussed were issues that were brought up before by the members of the Council. Essentially right now we are trying to gain information from the county and vice versa so we better understand what each other's needs are and if a workshop is what the Council needs to get more input then we can certainly schedule one. As you are aware, the next three weeks are very busy with staff and the Mayor. We are probably looking at somewhere in late November or early December.

Councilor Morales stated if citizens have input, I think they should have that opportunity.

Attorney Bryant said I would encourage any of our citizens that want to give information, send a letter or drop a note by City Hall and we will make sure to include those in our discussion.

NEW BUSINESS

Mayor Miller stated next item on the agenda, consider approving Resolution 2003-23, Supporting Lincoln County Medical Center and asked Councilor Garrett to read it.

RESOLUTION 2003-23
A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF RUIDOSO DOWNS IN SUPPORT OF,
AND RECOGNIZING THE CONTRIBUTIONS TO THE
COMMUNITY OF THE LINCOLN COUNTY MEDICAL CENTER
AND PRESBYTERIAN HEALTH SERVICES

WHEREAS, the City Council of the City of Ruidoso Downs in keeping with its responsibilities to protect and provide for the health, safety and welfare of the Citizens of Ruidoso Downs, finds it appropriate to recognize the contributions of the Lincoln County Medical Center and Presbyterian Health Services to the Citizens of the City; and

WHEREAS, The City Council of the City of Ruidoso Downs acknowledges that the Lincoln County Medical Center provides very high quality primary healthcare to the Citizens of the City of the City of Ruidoso Downs and Lincoln County; and

WHEREAS, Presbyterian Health Services has managed and operated the hospital since 1973, during which time the hospital has been recognized as one of the top one hundred hospitals in the Nation; and

WHEREAS, The City Council of the City of Ruidoso Downs also acknowledges that the Board of Trustees of the Lincoln County Medical Center during the year of 2002, developed a strong strategic planning committee and produced an outstanding plan to improve the provision of and quality of healthcare in Lincoln County; and

WHEREAS, in 2002, the Lincoln County Medical Center approved capital improvement purchases totaling \$587,249.00; and

WHEREAS, the Lincoln County Medical Center completed a lease for the provision of a permanent MRI in the community; and

NOW, THEREFORE, BE IT RESOLVED, that City Council of the City of Ruidoso downs applauds the Lincoln County Medical Center and Presbyterian Healthcare Services for their many years of dedicated effective management of our hospital and expresses its deep appreciation on behalf of the citizens of the City of Ruidoso Downs.

PASSED, APPROVED AND ADOPTED this 9th day of October, 2003.

Governing Body of the City of Ruidoso Downs

Mayor Miller entertained a motion to approve. Councilor Garrett moved to approve Resolution 2003-23. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo,

Aye; Councilor Miller, Aye; Councilor Morales, Aye; Council Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving personnel recommendation, Communication Detention Officer Position. Chief Logan stated I would like to recommend Jennifer Driscoll for employment as Communication Detention Officer. Jennifer is currently certified by the New Mexico Law Enforcement Academy as a dispatcher. This would save us on sending her to training. She also has about five years experience working with the Ruidoso Police Department as well as the Mesilla Valley Regional Dispatch which is Las Cruces. She comes highly recommended and I think she would make a great asset to the department and the city.

Councilor Olivo asked if Jennifer is any relation to Michael and Chief Logan responded yes sir, Michael and Jennifer are husband and wife.

Motion was made by Councilor Miller to approve Jennifer Driscoll for the position of Communication Detention Officer. Seconded by Councilor Morales. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Council Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving Precinct Board Recommendation - Special Election - November 21, 2003. Clerk Virden said I would request from the Mayor and City Council to approve my Agenda Briefing Memorandum in regards to the governing body appointing the precinct board and translator, the absent voter board and also the alternate election clerk for the Special Election. Presiding Judge, Barbara Green; Election Clerks, Diane Carpenter and Mickey Sanchez; Translator would be Mickey Sanchez and the Alternate Election Clerk would be Tommy Hood.

Councilor Morales made a motion to approve the Precinct Board recommendations for the Special Election on November 21, 2003 and that they be compensated \$150 per day pursuant to the Election Code. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Council Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider awarding Bid No. 04-006, All American Basketball Court. Administrator Waters said if you will look at the Agenda Briefing Memorandum this is for the concrete to pour over the top and the necessary work and items to complete the All American Basketball Courts. It reconstructs what we have currently and there are some very specific requirements in the bid specifications that require this to be done properly as opposed to last time when it was not done properly. Obviously, everyone knows what we have going on; we have issues with that. This is going to make it complete the way it was meant to be in a safe manner so we don't have a pool there during the wintertime to

freeze over and the kids can get hurt on. We will see a new basketball court with everything on it hopefully by the end of the year and this did come in under budget.

Councilor Morales asked where is Southwest Concrete from. Administrator Waters said Artesia; they do construction projects all over the state. Councilor Garrett asked if the engineers will be overseeing this job and he answered yes.

Mayor Miller entertained a motion to approve. Motion was made by Councilor Miller to award Bid No. 04-006 to Southwest Concrete Construction Inc. in the amount of \$71,644.00, the lowest bidder. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Councilor Morales said Administrator Waters on May 14, 2003, you requested action be taken by the City Council to advertise for bid and we did a request for proposal. By having to take that before Council, wasn't there a possibility that was delaying a project further where maybe sending us a memo possibly saying this is what we are going out for bid for or request for proposal and then when we come to actually spending the money then going before the Council for approval. So my question is, are we delaying projects by waiting for a Council meeting to go out for bid when we could bypass that process.

Administrator Waters said it could delay a project. With proper planning it is not meant to do that; it is meant to give the Council complete control and understanding as to what is being done by staff and when it is being done by staff to ask to go out for an RFP or bid. In the case of construction we have for City Hall itself, we all understand the process we have gone through. We have put it out twice; we can't get a reasonable bid. It keeps the Council up-to-date and gives the Council the ability to say let's not continue with this or this is why we don't have an addition built onto City Hall. It is just another mechanism to keep the Council informed. Essentially, that is what it is meant to do. Councilor Morales said I feel like we are doing double duty here. I feel like you are in a position of knowing what and when we need to go out for RFP's. It doesn't matter to me but by sending us a memo and keeping us informed that way we would avoid a potential for delay. If we are going to spend the money now, we need to approve it. I am not complaining; I just wondered about that.

Attorney Bryant said with respect to those items that we actually put in the budget process; we could amend the budget process so when we approve the budget we authorize city administration doing the RFP or bid, whichever is applicable. Under the Purchasing Act we have to have action from the governing body to go out for bid but we could do that as an additional statement with our motion to approve all of those items in the budget and that would eliminate that step from anything that is in the budget. Special things that come along during the year, we would still have to come back to you because we have to have your majority authority for action.

Administrator Waters said that is something that is meant as an extra control, particularly to show the Council progress as it was going along. If it is the Council's wish to approve that as part of the budget process that is sufficient with me. The other thing is when you have to change the project somehow, then we get into the territory if it changes in any way, we have to ask the Council because it is similar to asking for a budget change. We will put that on the next agenda. We might be able to coordinate that with the next quarterly budget adjustment.

Mayor Miller stated next on the agenda, consider Declaring and Approving Worn Out, Unusable and Obsolete Tangible Personal Property.

Councilor Miller moved to declare and approve worn out, unusable and obsolete tangible personal property. Seconded by Councilor Garrett.

Councilor Olivo asked if there are any old trucks we could use for reading the meters instead of using the diesel truck. Public Works Director Mosley said none of these. Administrator Waters said one thing Mr. Mosley pointed out when we changed to a diesel motor is that it would actually be a little bit cheaper to run a diesel motor in the mountains. There is a benefit to using diesel especially with the gas prices.

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 approving Auction on November 15, 2003 at the Public Works Building for Worn Out, Unusable and Obsolete Tangible Personal Property.

Councilor Garrett moved to approve holding an auction on November 15, 2003 at the Public Works Building for Worn Out, Unusable and Obsolete Tangible Personal Property. Seconded by Councilor Morales. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving Resolution 2003-24 - Employee's Appreciation Day - October 22, 2003. Mayor Miller read the resolution:

RESOLUTION 2003-24

CITY EMPLOYEES' APPRECIATION DAY

WHEREAS, the city employees in our community are an integral part of our citizens everyday lives'; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of the City of Ruidoso Downs City Workforce; and

WHEREAS, the health, safety and comfort of this community greatly depends on these departments; and

WHEREAS, the quality and effectiveness of these departments, as well as their planning, design, and construction, is vitally dependent upon the efforts and skill of all city employees; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff the departments is materially influenced by the peoples' attitude and understanding of the importance of the work they perform.

NOW, THEREFORE BE IT RESOLVED that I Bob A. Miller, Mayor of the City of Ruidoso Downs, do hereby proclaim Wednesday, October 22, 2003 as

"CITY EMPLOYEES APPRECIATION DAY"

NOW, THEREFORE BE IT RESOLVED the City of Ruidoso Downs will be closed from 11:30 AM to 1:30 PM for a City Picnic to be held at the All American Park, Ruidoso Downs, NM.

Passed and approved this 9th day of October 2003.

Councilor Garrett moved to approve Resolution 2003-24 Employees Appreciation Day October 22, 2003 from 11:30 a.m. to 1:30 p.m. Seconded by Councilor Miller.

Councilor Olivo said he wanted to applaud Councilor Morales for initiating this and to the public, the City Councilors are going to pay all of the expenses. Arrangements have been made with the Senior Citizens building if it is raining we will have it inside the building. Councilors are going to meet after the meeting to discuss what we will be serving.

Councilor Morales said I think we have some very good employees working for our city and I think we should thank them. Hopefully the weather will keep so we can have all of the employees gather at the same time.

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

OTHER BUSINESS

Administrator Waters said I do wish to point out for those of you who haven't already seen it, Mr. Mosley and his crew has started on our walk path around the All American Park. Currently they have done some cleanup in the back and I think they have done a great job so far. We do plan on putting asphalt and part of it will be concrete around the parking lot.

PUBLIC INPUT

Bonnie Richardson said I am chair for the Parks & Recreation Committee and I never know if Parks & Rec reports should come under Other Business or Public Input. I gave each one of you a recap of our last meeting. The Parks & Rec Committee was really excited over the walking trail. I stopped when I saw the equipment and the men working and told them how nice it looked. It is so nice after so many years to see our park begin to look like a park especially behind the baseball field where we had a first class dumping ground for so long. We would like to thank you and congratulate you, the mayor, the councilors and the city employees for this big step. I know we have to concentrate on water, sewer and streets but it is really nice to have a little bit of the nicer things in life too. Don Coleman asked us where the skate park project is and I know money has been budgeted but at this point nothing has been done. The committee would like to request the city to allow a design to be developed with some of the money that has been budgeted and combine a citizens group meeting with the people that are knowledgeable about drawing up a skate park and at least get a design started so when the rest of the money is in the budget we can go ahead with the project.

We discussed possibly putting billboard signs at strategic locations around Lincoln County. Two would be at San Antonio where you turn off to go to Albuquerque. One would be east at Highway 380 and 70 and one would be at the "Y" in Ruidoso. These signs would tell briefly what is in Lincoln County for the purpose of recreation. If Lincoln County and Ruidoso would go in on these signs, then the lodgers' tax money should pay for those.

The last item we would like for you to consider is somewhere in this room put up our drawing of the Master Plan for the park. We paid a lot of money for the engineers to develop that Master Plan and we would like for people to know that the city and the Committee are continually working on developing it. It is in three phases. We still haven't accomplished Phase I so we are anxious to finish that and get started on Phase II.

Councilor Miller said I just want to let people know that on October 16th at 6:30 p.m. at Ruidoso Downs Senior Citizens' Center there will be Task Force meeting for the proposed Community Center. The Task Force will be people from all over the county.

Councilor Olivo said after the parade Saturday a lot people approached me asking what happened to Ruidoso Downs' old fire engine. I think we spent a lot of money restoring it just to be collecting dust. Before we used in all of the parades.

Councilor Olivo said I have also been approached by citizens wanting to know how much water is going over the overflow. Mr. Mosley said this month we did have an accurate reading of the overflow; it was 1.5 million gallons. It comes out to about 88 gallons per minute; we need more storage and that is what we are working on right now.

Councilor Olivo said we are working on a Halloween Party for our kids and tomorrow night about 5:00 p.m. we are going to have a meeting at the old shop building. Anyone that wants to come and give us ideas how to build a haunted house for our kids, please show up.

Jim Burrow asked Carol how are we coming along with the speaker system. Clerk Virden said I have put together a quote for the P.A. system and I believe I reported to the Council that I am taking bits and pieces of stuff I had already received so we are kind of building our own. We have sent off the quote to three potential vendors and we are just waiting to hear from them.

Dusty Beaver said I suspect you have already awarded the bid for the repaving of the basketball court with Southwest Concrete. I have a bid with them also to do it again. I would just like to know when I could get the funds for the first part of the concrete I provided. There still is no payment of those funds of \$23,000 for the concrete. There was nothing wrong with the concrete but I still have not been paid for the concrete that I provided.

Attorney Bryant said I have drafted a complaint against 3B's and I have reviewed that with Council. I have gone to Santa Fe and done some legal research on the bonding of that complaint. I will be drafting the bonding counts of the complaint. When I am ready to file the complaint I intend to give you a call because it is the perfect opportunity for you to step in and say I am owed \$23,000.

Dusty Beaver said I just don't want it to happen again because we are going to pour it again. If something happens again and it is not my fault then I'm out again. I guess I should have gone against the bonding company but I thought we were going to work this out and get some kind of settlement. I guess it is not going to happen that way, it is going to happen another way.

Mayor Miller said we wish it could have happened that way where you weren't caught in the middle. I have strong feelings for you and your daddy on what happened and your loss.

Dusty Beaver said I am the only one that is out any money because I had to pay my debtors like everybody else. The guy at the county gave me a little break on it but still I am getting charged interest every time the payment is not getting paid.

Mayor Miller said is there anyway you can get paid on demand. Dusty Beaver said basically it is up to what the spec sheets call for. I really cannot go against the city personally but I can go against the bonding company but the bonding company is going to put up a pretty heavy fight. Mayor Miller said what about the new pour. Dusty Beaver said on the new pour I can ask for funds on demand. The guys you got are really good guys; I'll give you that honest opinion. They do lots of work; they are going to do it all in one day. I think you will be happy with what you get. I

tried to work with 3B's but they didn't get paid and they are not going to pay me. I am stuck in the middle in limbo and I am the one with all the money out of my pocket. I can't go against them because then they would declare bankruptcy. That is my opinion and I just want it on record.

Attorney Bryant said I just want to agree with you. It is a lawsuit against the bonding company and you will be able to figure that on our case. I will make sure you have a heads up when I send it to the court to be filed.

Nick Blaya said I am President of Lone Mountain Contracting. My brother runs 3B's Construction and everyone has been paid except you, Dusty. We know we are out about \$80,000. We have been trying to work it out properly with you to get the job done according to specifications. We would like to see him paid and if it goes into a lawsuit I am sure we are all going to lose a lot worse than if we had worked it out. I have asked for arbitration on this before but I never had any answers. I would like to minimize the problems of this particular situation can produce and I am willing to work with Council if I can get it resolved before it gets into a long drawn out thing four years down the road. I know that Mr. Waters referred to us as having changed our name. No, we have not changed our name; Lone Mountain Contracting has been in business for over thirty years under the same name and the same license. We have never stiffed one single person out of dime and I want that man to get paid. If I don't get one single penny out of it, I would like to see him get paid. Thank you.

Mayor Miller entertained a motion to adjourn.

Motion was made by Councilor Miller and seconded by Councilor Morales to adjourn at 6:16 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer