

MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
OCTOBER 23, 2003

The Council of the City of Ruidoso Downs met in regular session on October 23, 2003. Mayor Miller called the meeting to order at 5:30 p.m. and asked Ron Andrews 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, Department of Public Safety Director
Ken Mosley, Public Works Director

APPROVAL OF AGENDA

Mayor Miller entertained a motion to approve the agenda. Motion was made by Councilor Miller and seconded by Councilor Olivo 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 Olivo moved to pull Item A. Consider Advertising Invitation for Bid for Construction of Drainage Improvements in River Park Subdivision and Item B. Consider Awarding Bid No. 04-004 - Allison Lane and Turkey Canyon Construction - Phase I for discussion. Councilor Garrett said she had one correction to the Minutes. Councilor Morales said I would suggest we table Item C. Consider approving Resolution No. 2003-25 Local Emergency Planning Committee and Item D. Consider approving Lincoln County Local Emergency Planning Committee By Laws for more consideration by our City Administrator and Attorney Bryant before we make a decision. Councilor Miller said Item C. is not on the Consent Agenda. Councilor Garrett made a motion to approve Item 7. Approval of Accounts Payable for the Consent Agenda. Clerk Virden said Councilor Olivo made a motion to pull Items A and B from New Business. Councilor Morales asked that Item D. be pulled from the Consent Agenda and table Item C and D for review by City Administrator John Waters and City Attorney Bryant until next Council meeting. Attorney Bryant asked Councilor Olivo to amend his motion.

Councilor Olivo amended his motion to pull Item 6 and Items A, B and D from the Consent Agenda. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF OCTOBER 9, 2003 REGULAR MEETING

Motion was made by Councilor Garrett to approve the Minutes of the October 9, 2003 Regular Meeting with the following corrections. I requested if we go to where we don't require you to let us know when you go out for bid, I would like a memo when you do go out for bid. On the last page, it is Nick Blea. Seconded by Councilor Morales. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

ACCOUNTS PAYABLE

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

UNFINISHED BUSINESS

Councilor Morales said I have a question for Mo. On the street light we approved by Tommy Hood's place, when can we expect that to be installed? Public Works Director Mosley stated I have gone out and checked all of the locations that were indicated that need lighting. We need 16 lights and I came up with a cost of \$160 a month. The area by Riverview doesn't have power. Therefore, we are going to have to obtain easements to get power to that street. Neither Parker Road nor Riverview have power for streetlights. With that in mind, all of these 16 locations where lights need to be installed, should we talk to the residents and make sure they want a light in front of their house. Councilor Morales said I think as a courtesy you could ask them. Mr. Mosley then asked the Council on the issue of Riverview, would you like me to proceed to obtain the easements and the Councilors agreed for him to proceed. Mr. Mosley said the power company needs a letter from us stating the addresses of the light locations and they would notify us before installation if there were any additional fees and also if they had to set an additional pole to get to the light. It would be \$2 per pole, per month extra. The tally on all of this is way cheaper than we initially thought it was going to be.

Councilor Olivo asked for Mr. Hood's light, will it require two extra poles? Mr. Mosley said he would have to get the property easement first. I will talk to the power company's engineer. Councilor Miller asked there are not easements between the property lines; I thought there were five feet on each side. Mr. Mosley said not that I am aware of.

Administrator Waters said I understood Council's wish when they passed this originally. I will direct staff to do whatever is necessary to get the lights put in place. We can ask the neighbors if they are interested in it and maybe that might

affect the placement of the light but I will direct staff to proceed this year on getting those lights placed. As it was pointed out at the meeting it was approved, they won't be able to put them in all at once anyway. Also, as the Council has directed, we will start in the area around Mr. Hood's request.

Councilor Morales said I have one more question. When a city streetlight is out, do the people call you to report it. I know at one time they called the police department. Mr. Mosley said they sure can. I can call the power company or they can.

Councilor Olivo asked have we started negotiating a contract for the Senior Center and Attorney Bryant answered yes. Councilor Olivo asked have we set a date for the workshop. Administrator Waters said we have not set one yet. We anticipate setting one for the beginning of November some time. We have to get the dates when the Councilors will be available. Councilor Garrett said I think we need a contract first; we need to have something in writing. Attorney Bryant said I believe Mr. Morel took a formal contract before the Board of County Commissioners at their meeting on Tuesday. As soon as they get it processed they will turn it over to us.

NEW BUSINESS

Mayor Miller stated the next item on the agenda is considering advertising Invitation for Bid for construction of drainage improvements in River Park Subdivision. Councilor Olivo said the only reason I pulled this, I understand they have made some changes down Parker. I believe we are going to dig a channel for the drainage of the water. Administrator Waters said as the engineer presented to the Council the changes to the project are due to monetary constraints and that is how we are proceeding right now. Obviously other things like fence improvements, if we can't afford it with the grants then we can look at other money to put a fence on it. Remember this is the first phase so anything we do subsequent to this new grant in the following years will address the other parts that have not been put in yet like changing from dirt along there to concrete. Obviously, we will have to put fences up anyway. In our negotiations with Mr. McCutcheon he is definitely insistent and rightfully so on us installing a fence wherever the boundary is going to be and a fence along the roadside as well. It can be done at the same time but it won't be a part of this actual project that we have here because we have monetary constraints. It will be above and beyond that so we will have to get it from the general fund.

Mayor Miller asked for a motion. Councilor Miller moved to approve advertising for bid Construction of Drainage Improvements in River Park Subdivision. Seconded by Councilor Olivo. 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 awarding Bid No. 04-004 - Allison Lane and Turkey Canyon Construction, Phase I. Councilor Olivo said the only reason I pulled this out is we have waited so long for this. After we award the

contract, how many days do they have to finish the construction? Administrator Waters said the majority of the work will be done before the end of the fiscal year depending on the weather. Mr. Mosley and his crew are actually getting ready to start the waterline. We have the waterlines ready for Allison Lane which means the folks that are living there, get ready for the road being torn up. They have to put the waterlines in and they have to do a lot of construction to build up the road in certain areas. With this, we will be able to do all of Allison and part of Turkey Canyon. Then we anticipate next year finishing Turkey Canyon and possibly part of Wright Lane. That is our intention but, of course, it is contingent on funding. Councilor Morales asked is that all we got was just one bid and Clerk Virden answered yes. Councilor Olivo asked do we have a thirty-day period after Mo finishes. Administrator Waters said they gave us a schedule that said we had to be out of there by the beginning of November so they could start their construction and paving. That will go depending on the weather; we know Turkey Canyon is going to go into the next year. Mr. Mosley said what we have planned on the waterline project is starting early next week. Depending on how long it takes the contractor then we will ask for notice to proceed if it is awarded tonight. After the notice to proceed, the contractor has thirty days for completion.

Councilor Garrett moved to award Bid No. 04-004 to Ruidoso Paving, a Division of WWC, Inc. with a base bid of \$198,242.20. Seconded by Councilor Miller. 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 No. 2003-25 Local Emergency Planning Committee. Councilor Morales moved to table until the next Council Meeting to give the City Administrator and City Attorney time to go over the resolution. Seconded by Councilor Garrett. 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 Lincoln County Local Emergency Planning Committee By Laws. Councilor Morales moved to table until the next Council Meeting to give the City Administrator and City Attorney time to go over the wording of the by-laws. Seconded by Councilor Garrett. 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, Planning & Zoning. Consider approval of P&Z recommendation to grant variance request 2003-08 for setbacks and width to subdivide Tract 9A into 9A and 9B requested by Antonio and Berta Cardiel.

Bonnie Richardson said I am sitting in for Paul van Gulick, Chairman of the Planning and Zoning Committee. On this particular request for a variance and setbacks, Tract 9 has had two mobile homes on it and has been occupied for many years as two lots. Dividing the tract, however, creates two lots of substandard size.

Consequently, it did not qualify for summary approval and required notification and a hearing. There were no protests and there appear to be no safety issues. Consequently, the commission recommends approval of the requested subdivision and setback variance. Councilor Garrett asked how big are those lots. Ms. Richardson said she did not have that information. If I remember correctly, they were still adequate size; the setbacks were just two feet from each side. Tom Armstrong said one lot was 73 feet wide and the other one is about 65. They were about 140 feet deep.

Councilor Miller moved to approve P&Z recommendation to grant variance request for setbacks and width to subdivide Tract 9 into 9A and 9B requested by Antonio and Berta Cardiel. Seconded by Councilor Garrett. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye, Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next, consider approval of P&Z recommendation to deny conditional use request for placement of a mobile home on Lot 7, Block 1, River Park Addition also known as 421 River Lane requested by William E. Hall.

Mrs. Richardson stated Mr. Hall wants to install a second mobile home on the same lot in order to take care of his daughter and grandson. There were two protests. We discussed attaching the trailer to the existing home so that it doesn't look like two separate trailers and removing the kitchen so that it doesn't constitute a duplex. This is acceptable to the neighbors who protested. Mr. Hall says he can accomplish the installation as described. Installing the second trailer as described will not require a conditional use permit. Consequently, we recommend denial of the request as it was submitted to the committee.

Councilor Miller moved to deny the original request by Mr. Hall on placement of a mobile home on Lot 7, Block 1, River Park Addition. Seconded by Councilor Olivo. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye, Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

OTHER BUSINESS

Administrator Waters said I would like to go on record, and I think I speak for all of the city employees; we thank you very much for the day of appreciation. It was a nice thing to do. I don't know which one of you came up with it originally; either Councilor Olivo or Councilor Morales, all of the city employees that were here that day got to take part in it. Of course, we have some police personnel that have to stand by the radios. We certainly appreciate the notion and I would agree with you, I think we have great city employees. They certainly give credit to our city.

Councilor Olivo said I think it was a great morale for employees as they really enjoyed it and I hope we do it every year. Councilor Garrett said as a councilperson, I really enjoyed it. I think it was a really nice thing to do and be with the employees. Councilor Morales said I was so pleased with so many of the employees that were

there. It was sad that so many of our police officers couldn't be there for obvious reasons. I would like to publicly thank Jimmie Barton for cooking the brisket as it was excellent and also to thank Wal-Mart and Arlene Herrera as they donated \$25; that is where we got all of our soft drinks and paper goods. I was really pleased with the turn out and we are going to do it again soon. Councilor Olivo said and thanks to Tommy Hood for letting us use the place. Tommy Hood said it was our pleasure and we enjoyed having you. It was very nice and thank you for having it at our center.

Administrator Waters said this is just a notice for council and the public. We now have a utility pay box located across the street. We thought we would try it out there and see how it works. The next thing we are looking at is a suggestion box and I already have an idea of what to start with. Clerk Virden said and also a P.A. system and I really thank the council for being so patient. The P.A. system should be installed next week.

Director Mosley said on behalf of the Public Works Department, the employees would like to thank the councilors for the luncheon. We really enjoyed it and we are really looking forward to next years. I would also like to take this opportunity to thank all of the employees that contributed to the walkway. They did a lot of hard work and they worked really well as a team. We anticipate having it paved by the end of the year. We will also be starting on the Allison Lane waterline replacement hopefully early next week and we would like everyone to know that there will be some water service interruptions. We apologize for that and will try to keep it down to a minimum. Also, we have installed three speed bumps on Parker Road. I would like for everyone to please watch for the posted signs to minimize damage to vehicles. I would like to let everyone know that I have the privilege of working with one of best group of employees I have ever had the opportunity to work with and I really appreciate their hard work.

Councilor Garrett said if you could let the Senior Center know when you are going to cut the water off because when we do, it is really hard for them to prepare lunch.

Councilor Olivo said we are halfway done with our haunted house but we need some ladies to help us decorate.

PUBLIC INPUT

Ron Andrews said I represent the Golden Aspen Motorcycle Rally. The first thing I want to do is apologize for my tardiness. As you know I usually come before this body to thank everyone in the village, especially the police department, for their assistance during the rally. It was a success this year; it was our 34th year in the Ruidoso area. As you know this was the third year to have it in Ruidoso Downs because we outgrew everything that Ruidoso had to offer. We were up about 14 percent this year; that makes us one of three events in motorcycling that actually had an increase in attendance. The Milwaukee One Hundredth Harley kind of hurt everybody. Early estimates are that we had about 38,000 people pass through town

in the five days. Visiting with local businesses and local dignitaries that makes us the largest special event in Lincoln County which includes Labor Day weekend now. Part of the reason is that we are a five-day event and Labor Day is a three-day event. I especially want to thank the Council and thank the Police Department, they did a gentlemen's job of keeping the traffic as well controlled as possible. I think the facility worked out very well. With that crowd, I am not sure it could fit anywhere else and still not disrupt normal life. I want to thank Lincoln County Waste Authority with their help with the trash, all of the city employees involved and the Ruidoso Downs Lodgers' Tax Committee for their support over the years. We really appreciate it and we plan to be at the Sports Theatre for quite some time as we have a six-year contract. I just got approached by a member of your illustrious Chamber of Commerce to join so I guess we will be doing that. Part of what I do when I thank is give a commemorative pin to the folks. We are trying to attract some more national vendors and some manufacturer attention. We are still out there, we are still growing and are there any questions.

Councilor Morales said I have never seen so many motorcycles. It seemed like there were more than there ever had been and Ron Andrews answered there were definitely. Councilor Olivo said it says it is being held in Ruidoso and it is held in Ruidoso Downs and Ron Andrews said we have to work on that. Councilor Olivo said some of the Council members gave out a lot of our pins to the bikers and they were real thrilled about it. Ron Andrews said the motorcyclist tend to go to places where they feel welcome. Between the city employees, the police department and local businesses and I would like to also thank the Ruidoso Downs businesses that supported us and donated rooms for our volunteers.

Mya said I want to make a comment on tonight's meeting. My observation about the street lights, I lived in a place where telescopes in the back yard was an every night thing for the family and we agreed because it was a big community, we had those special lights that didn't reflect so high up. If you are going around asking people if they want street lights and they give you a little bit of an objection, I am not knowledgeable but if the last light could be put in and maybe in the future the brighter lights put in, we know this community is going to continue to grow. Why don't we stay low because we have great stars out there. We could start a trend for the environment this way; we could be known as the community that did this.

Administrator Waters said there is a law in New Mexico now called the Dark Sky Law or something to that affect where it requires us to have certain types of light. It narrows the beam; it doesn't spread outwards. All cities are required to use those now. Mya said that makes me very happy; I was living in another state so I wasn't aware of that law in New Mexico. Administrator Waters said it is brand new.

Mya said my other observation was you chose to table Item 9.C., I am just curious does the Council know ahead of time why something is going to be tabled. Why don't you give us the reason why you have to table a motion?

Attorney Bryant said as the city attorney, I wrote a letter to the Councilors and I raised some concerns about some of the elements of the LEPC process. I put it in a letter because it is ticklish subject matter that I view to be within the attorney/client relationship and that is what generated the motion. The lawyer has asked for them to give me some time to work out some anomalies and it will be back on the agenda next meeting.

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 Morales made a motion to go into Executive Session pursuant to Section 10-15-1(H)7 and Section 10-15-1(H)8 and that nothing will be discussed except threatening and or pending litigation and real property and water rights. Seconded 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 Attorney Dan Bryant, Administrator Waters and Clerk Virden to attend the Executive Session and closed the regular meeting at 6:22 p.m.

Mayor Miller called the regular meeting back to order at 7:26 p.m.

Councilor Morales declared that nothing was discussed except threatening and or pending litigation and real property and water rights and consideration of possible action for real property and water rights and no action was taken during Executive Session.

Councilor Morales moved to authorize Administrator Waters to negotiate with Gilbert Skar the purchase of the water rights not to exceed \$5,000 per acre feet. Seconded by Councilor Garrett. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Councilor Garrett moved to purchase the land from Mr. Hill. Councilor Morales seconded. Roll call being: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller entertained a motion to adjourn. Motion was made by Councilor Garrett and seconded by Councilor Morales to adjourn at 7:31 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer