

MINUTES OF THE REGULAR MEETING  
OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
MARCH 11, 2004

The City Council of the City of Ruidoso Downs met in regular session on March 11, 2004. Mayor Miller called the meeting to order at 5:30 p.m. and asked Dean Holman to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Olivo	Councilor Miller
Councilor Morales	Councilor Garrett

City Administrator Waters informed Mayor Miller all were present and there was a quorum.

Also present were:

Dan Bryant, City Attorney  
John Waters, City Administrator  
Carol Virden, City Clerk/Treasurer  
Robert Logan, Department of Public Safety Director  
Tom Armstrong, Planning/Licensing/Permits Supervisor  
Ken Mosley, Public Works Director

ORGANIZATIONAL MEETING OF THE GOVERNING BODY FOR THE  
CITY OF RUIDOSO DOWNS, NEW MEXICO

Mayor Miller entertained a motion to approve Resolution No. 2003-31 Open Meetings Act.

Motion was made by Councilor Garrett and seconded by Councilor Miller to approve Resolution 2003-31 - Open Meetings Act. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, reading of Rules of Debate from City of Ruidoso Downs Municipal Code of Ordinances and asked Administrator Waters to read 1-3-2 (E) Rules of Debate 1 - 7:

1. Mayor: the Mayor may not make and/or second motions, but may debate from the chair and shall have all the privileges of the members of the Governing Body, except that he/she shall only vote when there is a tie.

2. Councilors: Each Councilor desiring to speak shall address the presiding officer and after being recognized, confine himself/herself to debate, avoiding personalities and indecorous language.
3. Interruption: A Councilor having been recognized shall not be interrupted except to call him/her to order. If called to order, he/she shall cease speaking until the point of order is decided after which he/she may proceed.
4. Closing Debate: The Councilor moving the adoption of an ordinance or resolution shall have the privilege of closing debate.
5. Reconsideration: A motion to reconsider any action taken by the Governing Body shall be made on the day such action was taken. Such motion shall have precedence over all other motions except a motion to adjourn and shall be debatable if the motion it refers to was debatable. The motion to reconsider may be made only by a member who voted with the prevailing side.
6. Statement in Minutes: A member of the City Councilor may request the privilege of having his/her statement on any subject under consideration entered in the minutes subject to the consent of the Governing Body, providing that any member shall have the right to cause his/her reasons for dissent or protest against the action of the board entered in the minutes without consent.
7. Issues not Covered: Robert's Rules of Order Newly Revised shall be used by the City Council in determining any issue not covered by this section.

Mayor Miller stated next item on the agenda, Pursuant to Article 4, Chapter 1-4-2 Appointment; Terms, Appointed Officers and Special Committee Officers shall be appointed by recommendation of the Mayor and confirmation by City Council at the Organizational Meeting held every two (2) years following regular municipal elections.

1. Appointment of City Employees:

**Finance Administration**

\*John P. Waters, Administrator

\*Carol Virden, Clerk/Treasurer

Terri Mosley, Procurement/Asset Control Manager

Steve Dunigan, Personnel/Payroll/Loss Control Manager

Suzanne Reed, Utility Clerk

Annette Wallace, Secretary

**Licensing & Permits**

Tom Armstrong, Planning/Licensing/Permits Supervisor

Emma Herrera, Secretary

**Public Works**

\*Ken Mosley, Public Works Director  
Dennis Riddle, Foreman  
Dale Graham, Assistant Foreman  
Jimmie Barton, Mechanic  
Terry Proctor, Equipment Operator  
Ricky DeVara, Water Operator II  
Benny Sanchez, Equipment Operator  
Ronnie Randolph, Sewer Laborer  
Shane Casler, Water Operator I  
Leonard Sanchez, Caretaker  
Bill Dunlap, Maintenance/Parks Laborer

**Department of Public Safety**

\*Robert Logan, Chief of Department of Public Safety  
David Hightower, Deputy Chief of Police  
Dana Terlecky, Sergeant  
Shawn Sanderson, Officer  
Jason Kinnick, Officer  
Manuel Tejada, Officer  
Robert Denny, Officer  
Michael Driscoll, Officer  
Paul Raines, Officer  
Robert Olshaskie, Officer  
Robin Chad Bristow, Officer  
Cynthia Miller, CDO Supervisor  
Betty Bennett, CDO  
Lisa Batt, CDO  
Brady Chambers, CDO  
Andrew Friberg, CDO  
Ann Ella Hatter, CDO  
Cindy Green, Secretary  
Jim Badjar, Firefighter  
Peggy Lu Jane, Animal Control Officer  
John Sims, Code Enforcement Officer

\* Appointed Positions

Councilor Olivo moved to confirm the appointed officials and rehiring of city employees as recommended by Mayor Miller. Seconded by Councilor Miller. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, Appointment of City Special Committees and Boards:

**PARKS & RECREATION COMMITTEE**

Bonnie Richardson  
Don Coleman  
Carl Efurd  
Jackie Branum  
Thomas E. Chavez

**LODGERS' TAX COMMITTEE**

Barbara Green  
Vipal Patel  
Beth Miller  
C. E. "Pappy" Bell  
Nayana Sharma

**PLANNING & ZONING COMMISSION**

Paul Van Gulick  
Bonnie Richardson  
Shane Garner  
Barbara Green  
Ron Ritter

**ETZ COMMISSION**

Susan Garrett  
Lawrence (Larry) Mulligan  
Dean Holman  
Sue Davis  
Joe Blaney  
Judy van Winkle  
Leonard McCutcheon

**LINCOLN COUNTY SOLID WASTE MEMBER**

Don Coleman  
Alternate - Vacant

**REGIONAL WASTEWATER TREATMENT PLAN  
JOINT USE BOARD MEMBERS**

Bob A. Miller, Mayor  
John P. Waters, City Administrator  
Jackie Branum

**BUDGET AND FINANCE COMMITTEE**

Susan J. Garrett  
Rene G. Olivo

Mayor Miller entertained a motion to approve his recommendation to special committees and boards as presented.

Motion was made by Councilor Morales and seconded by Councilor Olivo to approve the appointments of City Special Committees and Boards as submitted by Mayor Miller. Councilor Garrett said the only thing that needs clarification is we have listed the entire ETZ Commission and really only Susan Garrett, Dean Holman and Joe Blaney are appointments from this Board; the others are Sue Davis, Judy van Winkle and Leonard McCutcheon from the County and Larry Mulligan was elected. Councilor Miller asked if the ETZ Authority is still ongoing. Administrator Waters said yes, I believe the same member we can appoint is on there. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next on the agenda, nomination and election of Mayor Pro Tem. Councilor Olivo nominated Judy Miller as Mayor Pro Tem. Seconded by Councilor Morales. Roll call being: Councilor Miller, Abstain; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

#### APPROVAL OF AGENDA

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

#### APPROVAL OF CONSENT AGENDA

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the Consent Agenda. Councilor Morales suggested that when we have changes on the Minutes or lists, if you could highlight them so we will know what is being changed. Administrator Waters said that is not a problem. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

#### MINUTES OF FEBRUARY 26, 2004 REGULAR MEETING

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the Minutes of February 26, 2004. Roll call being: Councilor Miller, Aye; Councilor Olivo, 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  
DPS Report                        Permits/Licensing Report

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

UNFINISHED BUSINESS

None

NEW BUSINESS

Mayor Miller stated next item on the agenda, consider approving Resolution No. 2004-08 Establishment of City of Ruidoso Downs Municipal Excess Funds Investment Policy. Administrator Waters said if you remember from our prior two audits, we had one audit finding of not having excess funds invested in excess of a certain amount that is required by State statute. One of things we have really been working hard on is getting this excess funds investment policy together. It is now pretty complete; it does comply with State statutes. It was put together using a lot of different information including the Department of Finance and Administration. It is a solid policy. What this will now allow the City to do, if the Council so approves it, is to then invest the excess funds which is required by the State statute into the types of funds that are listed here, all State approved, so we can earn investment on that money while it sits in the bank essentially.

Councilor Miller moved to approve Resolution No. 2004-08 Establishment of City of Ruidoso Downs Municipal Excess Funds Investment Policy. Seconded by Councilor Olivo. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the destruction of wooden shed located adjacent to City Public Works Shop.

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

Mayor Miller stated next item on the agenda, consider JUAB recommendation to roll interest into NMED Loan for Wastewater Treatment Plant. Administrator Waters said at our last JUAB Board meeting one item in particular was brought up, the loan we refinanced for the solid handling facility at the wastewater plant. We recently got a new loan; instead of having a 4 percent loan over twenty years, we actually got

that interest rate cut in half. While we were negotiating the terms of the loan, a certain amount of interest built up and that interest is in the amount of \$84,973. That is either due now or they have given us the option of rolling that back into the loan at 2 percent. If it was just our decision to make, our 15 percent would be about \$12,000 for this year. However, that leaves our partners with a payment in excess of \$70,000 at this late stage and we have to move together. The Board has asked us to bring before each of the Councils permission to roll this interest amount into the loan. Because the rate is 2 percent what this means to us instead of paying \$12,740 today, over 20 years we are going to be paying \$13,832 for our part. I would recommend that you approve to roll this amount over into the new 2 percent loan.

Councilor Olivo moved to approve to accept recommendation by JUAB to roll interest into NMED loan for wastewater treatment plant. Seconded by Councilor Morales. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Morales and seconded by Councilor Garrett to award Bid No. 04-008 to Carl Kelley Construction for 2003 CDBG Colonias Emergency Water System Improvement - Construction of Water Replacement Lines. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, Judge Mansell, recommendation to appoint Alternate Municipal Judge. Judge Mansell said it is my pleasure to present a new alternate judge to you. This young man has agreed to attend the judges training with me that we are going to hold this year at the Ruidoso Convention Center. I have never had an alternate judge in the seventeen years that I have been here as judge to attend one and it is really a must if something would happen to me. Dale Perry will remain an alternate judge and I will swear him in this week. I would like to present to you Mr. Dean Holman although I don't think it necessarily takes your approval. He was the administrator and principal of one of the high schools in Roswell. Mayor Miller said it is a good choice. Administrator Waters said if you would like to make the welcome more formal, we could ask the Council to make a motion to approve if the Mayor would like and have an approval vote and have your swearing in at the same time. Mayor Miller asked for a motion.

Councilor Garrett moved to accept recommendation from Judge Mansell to appoint Dean Holman as an alternate municipal judge. Seconded by Councilor Miller. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Judge Harrold Mansell then swore in Dean Holman as an alternate municipal judge.

Mayor Miller stated next item on the agenda, water flow report. Administrator Waters said you have in your packet the latest spring flow the Public Works

Department has read from the meter at Griffith Spring. You will notice, at the last day of February, we are at an average flow of 241 g.p.m. and it is the lowest in history. I took this graph with me to the CDBG hearings and showed the committee that decides on the grants. We had a question, is it an emergency in the City of Ruidoso Downs and who declared that. By the action of the Council on the Water Conservation Ordinance and putting the City in the third stage, we are in right now that it did point that as an emergency. Unfortunately, we haven't seen the kind of snowfall that we would have liked. We hope for more but the spring is showing a serious depletion problem. As we have told the public and the Council in the past, we are aggressively seeking water rights to come up with an alternate source as our Water Master Plan calls for. We are also asking, as you will see in the next item, for an analysis of the spring. We need to know is this just a blip or is this something that is a trend. If it is a trend, where can we go for more water. We have some ideas, however, you need a hydro geologist to look at the areas around here, look for areas that have water-producing strata and certainly the water rights issue comes into play. We have been fortunate in purchasing water rights and we do have some that certainly can be used once we find the spot. Of course, we have to go through the State Engineer's Office. This is a very high priority for me and I know for the Council as well. Water was the top project on your ICIP list; it is the top project on the staff list. We will be pursuing all sources of funding to try to get the reservoir the Council approved. I don't know the results, however, I'm told we did receive some, if not all of our funding, from the State legislature. We haven't received the complete list yet but there was \$350,000 of that money that was destined for the water tank. Thanks to Clerk Virden and our great Governor, we know we have \$150,000. We are asking for \$500,000 from the CDBG. You will see that we do have some budgeted this year and we are going to be asking for additional money to finish the project. I believe we can get this project completed within about a year and a half. We have some space available, both city property in that area and some private entities that are willing to give us property in a high area to put this reservoir. It will allow us to have a buffering capacity so when people do show up. One of the things you need to look at is the 241; last year was 278 in January. At that time our master plan shows 266 g.p.m. as our average flow. I think that is probably somewhere lower than that. Last year we had one month that jumped to 258 g.p.m. That was the highest month and I believe that was in June. The bottom line is both of those numbers exceed the 241 we are looking at right now. We are going to be looking at some serious pumping of the Denton wells. Denton is a well that probably needs to be rehabilitated. Probably towards the end of the year we are going to be asking to go ahead and do rehab on it. We haven't been able to do it yet because I believe we used it into the fall and winter. This is a serious situation and we are going to be pursuing every possible source of funding. We are going to be asking the Council this next budget year for a significant amount of money to finish this project.

Mayor Miller stated next item on the agenda, consider approval to advertise RFP 04-03, Hydro geological analysis of Hale (Griffith) Spring and municipal alternate water source evaluation. Mayor Miller entertained a motion.

Councilor Morales moved to approve Hydro geological analysis of Hale (Griffith) Spring and municipal alternate water source evaluation. Seconded by Councilor Garrett. Roll call being: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

#### OTHER BUSINESS

Councilor Garrett asked if it is possible for the Municipal League to come down and not only teach us but other Boards about Robert's Rules and how to conduct a meeting so we do it in a proper way. I think we need that as a group. Councilor Miller said maybe we could do it in a workshop. Administrator Waters said the Municipal League actually have people who are trained to do this and towns bring them in all of the time to train them on Boards. They tailor it specifically to what they have. It would be good to invite the entire appointed Board in. It would be similar to the one you received and many of you have gone for newly elected officials training.

Clerk Virden said the Council needs to be aware they have very skilled employees working for them. I would like to take this opportunity to thank Terrance Proctor and Jimmy Barton for completing my storage cage in to which I will be transporting the old files from this old storage across the street to my new cage. They did a wonderful job.

#### PUBLIC INPUT

Joe Blaney said I have one question and I realize it was on the Consent Agenda, Items 11. B and D. How can we just make an approval to consider something without talking about it; how did that wind up on the Consent Agenda. Administrator Waters said it was just placed on the Consent Agenda. If any of the Councilors wished to take it off, they certainly could. My understanding of this is now that this has been approved, it will be dismantled, put in a pile and anyone who wants that wood can come pick it up at the Public Works yard. Councilor Miller said Joe, I had second thoughts about that too; I sort of wanted to pull it because to me it is history. But, it needs to happen because of a safety issue and it is falling apart, especially if it is enticing children. Mayor Miller said it is an accident that is fixing to happen as the kids are playing in it.

Attorney Bryant said Joe, with respect to Item 11. D, that is the item the engineers were here at our last meeting and they gave us a very thorough report about where things were and what was going on. There were some technical issues about the qualifications of one of the contractors that they had to resolve. Those got resolved between the two meetings so the Council really did have a very thorough update

and discussion on that at its last meeting so tonight was just tying up the loose ends and finishing the award.

Sue Davis said I live in Agua Fria, the newly annexed area. During the Boundaries Commission Meetings, it was my understanding that this Board said they had lots of excess water and that is why you were able to annex all of this area. Now, you don't have enough water. Attorney Bryant said I was struck by the discussion so I calculated the amount of water that is available from one water rights purchase we already consummated this spring and that is 5 million gallons. We don't have a supply shortage problem. What we have is the inability to capture, hold and distribute the water appropriately. With that water rights purchase, we will make up for the shortage that is flowing out of the spring currently. With the hydro geologic study, we will know where to locate the well to tap into that 15 acre feet of water. An acre foot is about 327,000 gallons; that is almost 5 million gallons right there. That is why your infrastructure and capital improvement plan is set up to stop the leaks, put in the storage, upsize the lines and do all of those things to make the system work. We have an appropriate plan; we are already a couple of steps down the road. In other fiscal year, we will be a couple of more steps down the road. I agree with Mr. Waters. At this stage, the critical element is to get that storage tank on line and under construction. We can't just pump the Denton wells and make up the difference. We can on a short-term basis but on a long-term water plan, we have to know where can we put that well to tap into that 5 million gallons. We have that much more lined up and under advertisement with the State Engineers Office. That is the testimony that was before the Municipal Boundaries Commission, not just that we have lots of water. That is a short version of the whole story. If you want to read it in detail, I have the transcript of all the testimony before the Municipal Boundaries Commission. Mrs. Davis asked how long do you think it will be before you have all of this on line. Attorney Bryant said it is all in the Infrastructure Capital Improvement Plan. Some of it is online now; some it will come online step by step as we go through each fiscal year.

#### 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.

Motion was made by Councilor Morales and seconded by Councilor Olivo to go into executive session pursuant to Section 10-15-1(H)7, Threatening and or Pending Litigation. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated I would like to invite Administrator Waters, Attorney Bryant and Clerk Virden to attend the Executive Session and closed the regular meeting at 6:18 p.m.

Mayor Miller called the regular meeting back to order at 6:43 p.m.

Councilor Morales declared that the only item discussed in Executive Session was that of Threatening and or Pending Litigation and no action was taken.

There being no further business, motion was made by Councilor Garrett and seconded by Councilor Miller to adjourn the meeting at 6:43 p.m. Motion passed unanimously.

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Bob A. Miller, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer