

MINUTES OF THE REGULAR MEETING  
OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
JUNE 28, 2004

The Council of the City of Ruidoso Downs met in regular session on June 28, 2004. Mayor Miller called the meeting to order at 5:30 p.m. and led 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  
Ken Mosley, Public Works Director  
Robert Logan, Department of Public Safety Director

APPROVAL OF AGENDA

Mayor Miller entertained a motion to approve the agenda. Administrator Waters stated items B. and C. under New Business have been pulled. Motion was made by Councilor Olivo 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. Motion was made by Councilor Morales and seconded by Councilor Miller to approve the Consent Agenda. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF JUNE 14, 2004 REGULAR MEETING

Motion was made by Councilor Morales and seconded by Councilor Miller to approve the Minutes of the June 14, 2004 Regular Meeting. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF MAY 19, 2004 BUDGET WORKSHOP

Motion was made by Councilor Morales and seconded by Councilor Miller to approve the Minutes of the May 19, 2004 Budget Workshop. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

### ACCOUNTS PAYABLE

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

### UNFINISHED BUSINESS

Mayor Miller stated next item on the agenda, Planning & Zoning report, consider approving recommendation to approve Land Division and Lot Line Adjustment of Lot 56, Block 1 and Tract C of Ruidoso Downs Heights Subdivision into Lots 56A and Tracts C-1, C-2, C-3 and C-4 for Ronnie and Betty Gustin.

Paul van Gulick said this is the second time this has been before the Council. There has been one protest and we looked at that. The sub-dividers provided a drainage master plan for all of these lots. I think that was one of the main concerns in subdividing Tract C that it would not increase the drainage onto the highway. Now it appears to meet all of the subdivision regulations in our ordinance so we recommend approval of this subdivision.

Councilor Garrett said if I am looking at this right, the elevation goes from 660 on one lot to 655, about 15 feet. Doesn't the subdivision rule have a 1 to 3 ratio rule so we don't end up with huge walls of dirt? They are cutting into the embankment right against the neighbor. There may be three feet of dirt piled up and nothing on their side so the fences on the neighbors' side are going to be affected. I am concerned about this because there is such a big elevation they need to realize that there needs to be a retaining wall. Paul van Gulick said I know you had mentioned that and we have in the ordinances either the slope has to be 2 to 1 or a retaining wall. I believe we have been enforcing that but I am going to make sure it is enforced.

Councilor Miller asked are they developing the utility easement road through there too. Paul van Gulick said that will remain a utility easement; it is not intended to be a road. Each lot has frontage on a road. I know this particular project got off to a wrong start but I am hoping at this time it does appear they have taken care of the concerns that we have. We don't have a lot of large tracks within subdivisions generally so this kind of thing isn't going to happen that often. In general if the lot is large enough it can be subdivided as long as it meets the standards and is consistent with the lot sizes in that neighborhood.

Councilor Miller moved to approve recommendation from Planning & Zoning Committee to approve Land Division and Lot Line Adjustment of Lot 56 Block 1, and Tract C of Ruidoso Downs Heights Subdivision into Lots 56A and Tracts C-1, C-2, C-3 and C-4 for Ronnie and Betty Gustin. Councilor Garrett asked would you amend your motion to make sure we look at the retention wall problem. When I look at this one driveway we are going from about 64/45 to about 64/55 to get into the driveway and I just want to be sure we don't leave a bunch of dirt coming down. Council Miller amended her motion. Seconded by Councilor Morales.

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

#### NEW BUSINESS

Mayor Miller stated next item on the agenda, consider awarding Bid No. 04-018, Sale of Property. Attorney Bryant said this is the culmination of the request by the Crumptions to fix the problem that was created the first time back in 1990 and then it was exasperated again a couple of years ago where this property was supposed to have to been sold minus the City's right to build a road. In both instances in 1990 and 2000, the deeds that were prepared reflected the City was retaining a roadway easement. In addition to that we could find nothing in the City's files to reflect that the State's statutory requirements were ever filled in terms of advertising, etc. We have corrected all of those steps, bids were let and the closing date was, I believe, the 22<sup>nd</sup>. The Crumpton's bid a \$1.00 and we are now free to approve their bid and then execute an appropriate quit claim deed from the City that surrenders the right we currently have to build a road there; that should put this entire issue to rest.

Councilor Olivo moved to award Bid No. 04-018 to Bob and Ruth Ann Crumpton. Seconded by Councilor Garrett. Councilor Garrett said I hope this puts to rest the rumor that we have tried to keep this property and that we don't want them to have it. I think this Board has done everything possible to make sure that the Crumptions receive it. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

#### OTHER BUSINESS

Mayor Miller stated next item on the agenda is a water status report. Public Works Director Mosley said at this time our spring flow is averaging 232 gallons per minute. Our Denton well is not doing as well as we had hoped. It is running about 95 g.p.m. and only runs about four hours a day before we have to shut it off and let it recharge for the next day. Our tank levels are not full and we are trying our best to get them filled up. I would like to remind the public to please try and conserve as much as you can at this time. We will be watching this real closely for the next few weeks to see if we can get our tank levels back up. Unfortunately, if we can't get the tank levels back up, I am going to request the City Administrator and the Mayor if we might go to the next stage of water conservation.

Administrator Waters said, as you are aware, we currently are under Phase II water restrictions. I would just like to remind the public that we are under those water restrictions; you need to make sure you are watering on the even side of the street on Tuesdays and Saturdays and the odd side of the street is Wednesdays and Sundays before 10:00 a.m. and after 3:00 p.m. Watch for water running down the street. If you see your neighbor doing that please remind them we need to conserve it. Summer is the rough time of the year.

Councilor Garrett asked what is the time frame for the new tank on Reservoir.

Administrator Waters said we are looking within the next year getting that

complete. We are currently working on the engineers getting the agreements together. This project is a rather large project. It is going to require taking down one tank we currently have on line and replacing it with another tank. It is going to be a significant project but we are looking at construction being completed within one year.

### PUBLIC INPUT

Mayor Miller stated next item on the agenda is Public Input with a three minute time limit.

Troy Parker said I live at 120 Escalante in Agua Fria Subdivision II. The dilemma we are up against is we are putting a fence around our house and we have it 90 percent completed and our neighbors are complaining about the placing of the fence. They want the finished side we have facing our lot turned to face their side. It is supposed to be by code. I talked to Mr. Armstrong when I had about three panels put up and he said go ahead and do it because our neighbor's entire fence is inside out. I have the finished side in. The neighbors said it was all right at the time to go ahead and build it and Mr. Armstrong said go ahead and build it. We did the one side by their property down our back property line and now up the bottom side. I just need to do the gate sides. I got red tagged on it saying I have to change my uphill side which is going to be a big, big job to turn it around. They said before we were annexed they put their fix inside out without having to deal with putting the finished side out when they put theirs up. I figured when they built theirs we were still under the three-mile ETZ or whatever they call it. Councilor Olivo said P&Z. Mr. Parker said I was thinking if they were able to put theirs that way and we didn't. Like I said we put the finished side out on the back lot line and the lower lot line for our other neighbors but we put ours facing the same way theirs was facing when we first started it and we got red tagged. I just wondered if you have any suggestions on how we can remedy it. Tom Armstrong is on vacation.

Councilor Garrett said I just want to clarify one thing for you because I am the Chairman of the ETZ. The ETZ has never been instituted. We are still waiting for the County to have the Authority to look at that so the ETZ had no authority on that. Mr. Parker said I didn't know if it fell under building permits like when we built our house. Councilor Garrett said I don't think theirs did at that time. Councilor Olivo said having discussed this with Mr. Armstrong and by law the lot size is supposed to be an acre unless you made an agreement with your neighbors. Mr. Parker said the neighbors told Mr. Armstrong, we are not getting along and not talking which is to say the least, by way of Mr. Armstrong, he said the neighbors said it was fine and we built the whole thing. Then I guess they found it could be legally changed. That is the longest part of the fence is their side. Councilor Miller asked Tom told you it was all right. If they told you it was all right when you put it in I don't know how they can make you change it. Councilor Garrett said can we just refer this back to the staff and let them look into it. Attorney Bryant said we will put this on the next agenda as unfinished business. Mr. Armstrong will be back on July 6<sup>th</sup> and we will have time to look into it.

Bonnie Richardson said I would like to ask the Council where the new fire station stands; what is the status. The reason I ask is because it was my understanding that once that fire station goes in our insurance rates will go down. We just got a renewal on our insurance rates and they have nearly doubled. This is going to cost thousands of dollars for the citizens of Ruidoso Downs. If we can get that on a fast track that will save each household a lot of money.

Administrator Waters said as you already know, we have budgeted the money for that and we do have a verbal offer for that property. We have received some indication back from that individual that it is agreeable. We haven't seen anything in writing but we also have some plats that we are looking at along with other properties that Mr. Hill just divided. Those are still awaiting some approval and as soon as that is complete and I think that is the holding point at this time. We are moving forward with that but we do have money budgeted and it has been approved by the State Fire Marshall as well. Chief Logan said as far as your insurance premium dropping, once we get the new fire station on line then we are going to put in a request to have our ISO rating upgraded. If your insurance premium doubled from last year it is not because of a drop in our ISO rating. Our ISO rating has stayed the same. We are looking to improve and hoping to help you out with those premiums.

Joe Blaney said I would like to know what the bottom line is on our drainage project. Are we going to give the \$500,000 back or are we going to get off the pot and get it done. Second, you said to call the Village whenever we see someone wasting water. You are the biggest water runners. You are the ones that have been running the water down the streets the most. Not Zia, which I am shocked. Third, I would like to find about the scoop of the draining of the Redman water tank. We have all heard rumors but we would like to know the bottom line. We don't have the water that everyone acts like we have. The only way we can keep it is to keep it in the tanks.

Mayor Miller closed Public Input as there were no other comments.

#### EXECUTIVE SESSION

Mayor Miller stated I would like to entertain a motion to go into Executive Session pursuant to Section 10-15-1(H)2, Limited Personnel Matters.

Motion was made by Councilor Morales to go into executive session pursuant to Section 10-15-1(H)2, Limited Personnel Matters. Seconded by Councilor Miller. 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 City Attorney Bryant, City Administrator Waters and City Clerk Virden to attend the Executive Session and closed the regular meeting at 5:55 p.m.

Mayor Miller stated there will be a five minute recess to clear the Council chambers.

Mayor Miller called the regular meeting back in session at 6:53 p.m. Motion was made by Councilor Olivo to go back into open session. Seconded by Councilor Miller. Roll call votes: Councilor Miller, Aye; Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Councilor Morales declared that nothing was discussed in executive session except limited personnel matters and no action was taken.

Mayor Miller entertained a motion to adjourn. Motion was made by Councilor Miller and seconded by Councilor Garrett to adjourn at 6:54 p.m. Motion passed unanimously.

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Bob A. Miller, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer