

MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
DECEMBER 13, 2004

The Council of the City of Ruidoso Downs met in regular session on December 13, 2004. Mayor Miller called the meeting to order at 5:30 p.m. and asked Paul van Gulick to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Miller	Councilor Morales
Councilor Olivo	Councilor Garrett

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
Robert Logan, Department of Public Safety Director
Tom Armstrong, Permits/Licensing Supervisor

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 NOVEMBER 22, 2004 REGULAR MEETING

Motion was made by Councilor Morales and seconded by Councilor Olivo to approve the Minutes of the November 22, 2004 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 Payable. 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
DPS Report	Permits/Licensing Report	

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

UNFINISHED BUSINESS

There was no unfinished business.

OTHER BUSINESS

There was no other business.

PUBLIC HEARING

Mayor Miller stated next item on the agenda is a public hearing to give a final report on the Community Development Block Grant Project No. 03-C-RS-1-7-G17 Water System Improvements Phase 1-B and to receive comments for further CDBG grant projects.

Administrator Waters said in directing the CDBG program, Carol has taken a look at some of the requirements. One of the federal requirements for completing the CDBG project is we have to give notice of a public hearing to tell the public that we have finished this project which involved a significant amount of federal funds. If you remember, this project is our \$500,000 Colonias project we received money to replace water lines and install the pressure reducing stations. I am happy to report to the Council and the citizens we are now complete with that project.

I will go over the funding. Of the architect and engineering fees, we paid approximately \$54,000, inspection fees were over \$13,000 and construction costs were \$644,568. The total amount of the entire project was \$712,689, of which \$500,000 came from Uncle Sam. Your tax dollars at work certainly for a small community like us that is more than our lion's share when you look at large municipalities throughout the state. We certainly are thankful to the folks at HUD as well as DFA that helped us. In addition, we did have a significant amount of staff help; the Water Department, Ken Mosley and Dennis Riddle and all of the guys worked really hard to make sure outages were minimized. As many of you know, we did have some outages out there. One of things installed with these water lines and pressure reducing stations were valves throughout the city. It is now our responsibility to maintain them so when have a leak we don't have to drain the entire reservoir, just shut off a certain section to work on it. This is the only the first part of that project. In our Water Master Plan, this Phase I-B has a second portion and we are going to be asking for funding from the state to get done with one-third

of the line replacements that includes part of Agua Fria, part of Wood Lane and a big installation of a 12 inch line along Highway 70 to the Hollywood area. In addition to stopping the leaks we had, one of the things we get out of this is more storage in our lines. Everything about this project will help the water system. Where we still need help, we are looking at the reservoir. This project with the federal funds in now closed and we will be looking forward to more projects in the future.

Mayor Miller said this is a public hearing and any interested parties that want to contribute input must approach the podium one at a time, state your name, present their testimony with a three-minute time limit. I hereby open the Public Hearing for comments.

Mayor Miller closed the hearing as there were no comments.

NEW BUSINESS

Motion was made by Councilor Morales and seconded by Councilor Olivo to approve Resolution No. 2004-28, Open Meetings Act for 2005. 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 Olivo to approve Resolution No. 2004-29, Holiday Schedule for 2005. 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 Olivo to approve Resolution No. 2004-30, Emergency Colonias Water System Improvement Project Phase B-2. 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 Olivo to approve Resolution No. 2004-31, Joint Resolution supporting grant application for funding for a Juvenile Methamphetamine Prevention and Education Program. 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, selection for 2005 CDBG project.

Administrator Waters said this is linked to what I just talked about. The CDBG funding cycle is coming close this year. I will preface this discussion by telling you there is some conflict at the state level and DFA as to exactly what we will be allowed to apply for this year because of the fact we have this drainage project that is sputtering along. I think we are moving a little bit quicker now. We are not going to be able to apply for the community infrastructure project until this one is closed.

However, we were told up until last week that we were able to apply for a Colonias grant for our water system. With the system in as bad a shape that it is in, certainly we have been pursuing completing the application. We were able to use a large portion of the application from 2004 for which we did not receive any monies. That application is going to be reworked if it is the council's desire to resubmit the water project we submitted last year. The problem is there is some interpretation that they may not let us apply for it. I plan on asking for a waiver and proceeding with the application knowing that last year a lot of people who didn't meet the threshold and who possibly might not have been able to meet the qualifications were ranked low on the priority list got funded. I certainly am going to relay our need to Marty Cope who sits at the head of the CDBG Committee. Fortunately, she owns property in Ruidoso so we are hoping to have her over and to talk to her about the need for this project. Although some of the State's staff are telling us that we are not going to be able to apply this year, they are not going to be able to tell me no unless I ask for it. I am asking the Council's permission to use the project from last year, apply for that project again this year, have all of the public hearings to that date in addition to this one today. We can use all of these towards our application. The environmentalists are complete with that project so we are ready to go if we get the funding for it. Certainly we would allocate our match that we agreed for last year for Phase B-2 Water Project.

Councilor Garrett moved to select Phase B-2 Water Improvement Project as the 2005 CDBG application. Seconded by Councilor Miller. 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 modification to purchase agreement with Ray Bell.

Administrator Waters said after further direction from the Council to move forward with a purchase agreement for that property, we noted Mr. Bell required an amount of interest to be paid on that property until it was paid off. We were going to pay \$20,000 upfront and the balance in the next fiscal year. The interest increased the cost by about \$1,900.

Councilor Garrett moved to approve the purchase of Cigarette Alley for \$45,000 and pay it all this year. Seconded by Councilor Olivo. 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 personnel recommendations for the position of Corporal with the Department of Public Safety.

Chief Logan said as you remember back in November, I requested and received Council approval for reorganization within the Police Department. I asked for two

Corporal positions to be added to the department. Recently we have undergone testing with the candidates who were interested and qualified for those positions. We had three candidates who were interested and I am going to tell you that the testing came down to 8/10ths of one point between the second and third scoring candidate. It was extremely close and all three of the candidates were well qualified. I had no qualms at all recommending all three but the Council only gave me two positions. I do recommend that Robert "Doc" Olshaskie and Paul Raines be promoted to the position of Corporal effective January 1, 2005.

Councilor Miller moved to approve the promotion of Robert Olshaskie and Paul Raines to the position of Corporal. 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 personnel recommendation of promotion of police officer within the Department of Public Safety.

Chief Logan said we had one position within the Department of Public Safety that has been open for a while. We did post in-house to have an interested member apply to go to the academy. Two members did apply; they were both with our dispatch side. Brady Chambers is the one I would like to recommend. If this recommendation is approved, Brady will become a police officer effective January 1st and will actually enter the Academy on January 2nd. Brady has been with the department for almost a year and has been a huge contributor to our Reserve program. He has helped me get that online. He has volunteered the most time. I think he will be a great contributor to our department as well as our city.

Councilor Olivo moved to promote Brady Chambers to Police Officer within the Department of Public Safety. Seconded by Councilor Miller. 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 approval of personnel recommendation of Dan Gens for Public Works Director.

Councilor Garrett said we interviewed several people and this man appears to be the best qualified. He certainly has a lot of history behind him and a lot of experience. He will be coming from out of state. I believe he is willing to start at the first of the year. My impression of him was really good and I think we need someone who is well versed in wastewater and in water. He has had a lot of experience in those areas.

Administrator Waters said he will be moving here during the holidays. He is very excited about working here. This is a logical step for him. He comes from a

municipality that is maybe a little bit smaller than Tularosa. It is a community in South Dakota. His title was Director of Utilities but he also had the cemetery and streets. He certainly has the education. He has a degree in utility water/wastewater management in addition to a lot of experience working as a director over this type of department. I think he will be a great fit. For the record, his name is Dan Gens.

Councilor Olivo moved to approve Dan Gens as Public Works Director. 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 cancellation of regular scheduled meeting on December 27, 2004 and rescheduling for Wednesday, December 29th or canceling regular meeting completely.

Councilor Olivo moved to cancel the meeting completely as several members will be out of town. 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 is Planning and Zoning and asked Chairman Paul van Gulick to address.

Paul van Gulick said the first item that came before us in Planning and Zoning is consider approving a conditional use requested by Ken Bauer representing Western Motors to relocate from 533 Highway 70 to 370 Highway 70. They will be relocating to where the Snake Pit used to be located. Just in considering the issues of health, safety and welfare, there were two conditions put on this. One, to keep the corner clear of cars so that visibility can be maintained and the second, keeping a lane clear through the facility for fire purposes. There was one protest. The person is not actually located adjacent to it but rather diagonally and actually fronts on a different road. The problem the protestor mentioned had more to do with another dealership on her road. It does appear there actually are some issues that will be looked into on her side but the proposed location for Western Motors didn't seem to be a significant impact.

Councilor Morales moved to approve the relocation of Western Motors from 533 Highway 70 to 370 Highway 70 with the two conditions of maintaining a fire lane and keeping the corner of Spring Road and Highway 70 clear for visibility. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mr. van Gulick said the next item is consider approving a Site Plan for the proposed assisted living facility at Tract 1 of the John Hill Tract located at the 1400 block of Highway 70. This is the current site of the old Prime Time building. Doug Siddens is representing the developer, Victor L. Lund, who wants to put an assisted living

facility on that location. They have in mind a range of \$3,000 to \$4,000 a month as the room and board for the residents. They brought a site develop plan that shows the layout of the building. It looks to me like they have done a lot of excellent work on it. Certainly it will add quite a bit to the city. There are not a lot of options actually in this area for assisted living. There is one in Ruidoso and Mescalero. This would bring one to this area; I think it is much needed. One issue that did come up is the height of the building. The architect has apparently gotten back to Mr. Armstrong. It looks like from floor to ceiling they look like they are within the range. As a matter of safety because of new construction practices and having to comply with the building codes, it will be fully sprinkled with firebreaks throughout the building. Having reviewed this with Mr. Armstrong, I don't see an issue on this one. Our recommendation is to proceed with the approval and asked if there were any questions.

Councilor Garrett asked if the fire equipment would reach that high and Councilor Olivo answered no. Chief Logan said we currently don't have a ladder truck on hand, however, I would like to let you know that we do have a ladder truck on our ICIP coming up in the next couple of years. We currently have another three-story commercial building in the city with the newest motel we have. With it being sprinkled, what we have to do is pull the fire truck up and hook up to it. We don't necessarily need a ladder to go over the top. Because the city is growing, we have the ladder truck on our plan to purchase in the not too distant future. Councilor Olivo said we also have a mutual agreement with Ruidoso. Chief Logan said yes, and they have ladder trucks. Councilor Garrett asked have we looked at low-flow fixtures for that facility. Mr. van Gulick said that is a good question; it did not come up at the meeting but certainly it would be in their best interest to use those. Mr. Siddens said we would be happy to comply with that; I don't see a problem with that at all. Attorney Bryant said under the State building code, you have to use low-flow fixtures now. It shouldn't be an issue. Councilor Garrett asked with 100 rooms are those going to be single occupancy or double occupancy. Mr. Siddens said at this moment there will be 100 rooms with the intention to be single occupancy with just a few double occupancy. Mr. van Gulick said this will boost employment by 60 persons.

Councilor Miller moved to approve P&Z recommendation of the Site Plan for the assisted living facility. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mr. van Gulick said the next item, consider directing the City Clerk to advertise for a final public hearing on the ETZ Board recommended zoning districts that lie within the newly annexed area. Now that we have the Comprehensive Master Plan in place and since the ETZ Board looked at all of that area that stands within the extraterritorial zone and now lies within our newly annexed areas. This would be the first phase of that. They have already done a lot of work; they have had a lot of

hearings. After much fussing and fighting, I think the owners are happy with the zoning. It just remains now to advertise for the final public hearing to adopt it so that is our recommendation.

Councilor Miller moved to approve recommendation from P&Z to direct the City Clerk to advertise for a final public hearing on the ETZ Board recommended zoning districts that lie within the newly annexed area. Seconded by Councilor Morales.

Councilor Garrett said I would like to say that the Board has tried to make the residents happy with our decisions and most residents were consulted before that map was ever made. We tried to do what they preferred us to do. I think we had a lot of thought and planning that went into it. Councilor Morales said then we shouldn't have any complaints. Councilor Garrett said I don't think so; I don't know of any. Councilor Miller said they will have a chance. Mr. van Gulick said that is what the final hearing is for.

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

PUBLIC INPUT

Bonnie Richardson said I am Chairperson for the Parks and Rec Committee. We have received \$100 from the Ruidoso Downs Auxiliary and will ask the City tomorrow to put that money in our bank account for a fence for our skate park. We would like to thank the Ruidoso Downs Auxiliary for helping us finish off this project. As soon as we get some lights it will be completely done. Right now the recommendation we have from Leonard Sanchez is we need a fence to go around our skate park.

Second of all, I am here as President of the Board of Directors of the Ruidoso Gymnastics Association. Wednesday night at 5:30 p.m. will be a celebration of our 25th year of gymnastics in Ruidoso combined with our Christmas program. It will be held at the high school. There is no admission charge. Refreshments will be served after approximately an hour-long program. We would like to invite the public to attend and bring a gift to help our gymnasts celebrate a very successful season. They just finished their State Meet. Level IV took first place for team. We had, I think, four first place all-around winners in Level IV. Then our Level V and Level VI participated this past weekend and they brought home third place. As it turned out, the first and second place winners were both in Albuquerque gymnastics. Our small town did very well and they did a great job.

EXECUTIVE SESSION

Mayor Miller entertained a motion to go into Executive Session pursuant to Section 10-15-1(H)8, Real Property and Water Rights.

Motion was made by Councilor Morales to go into executive session pursuant to Section 10-15-1(H)8, Real Property and Water Rights. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo, Aye; Councilor Miller, 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 6:08 p.m. There was a five minute recess to clear the Council chambers.

Motion was made by Councilor Morales to go back into open session. Seconded by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried. Mayor Miller called the regular meeting back in session at 6:55 p.m.

Councilor Morales attested that the only item discussed in executive session was that pursuant to Section 10-15-1(H)8 Real Property and Water Rights and no action was taken.

Councilor Garrett moved to approve to give authority to Attorney Bryant and staff to close on water rights purchases not to exceed \$25,000. Seconded by Councilor Olivo. Roll call votes: 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 Miller and seconded by Councilor Olivo to adjourn at 6:56 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer