

MINUTES OF THE REGULAR MEETING  
OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
APRIL 11, 2005

The Council of the City of Ruidoso Downs met in regular session on April 11, 2005. Mayor Miller called the meeting to order at 5:30 p.m. and asked Corena Baca to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Olivo	Councilor Morales
Councilor Miller	Councilor Garrett

Administrator Waters informed Mayor Miller there was a quorum.

Also present were:

John P. Waters, City Administrator  
Carol Virden, City Clerk/Treasurer  
Robert Denny, Lieutenant of Department of Public Safety  
Dan Gens, Public Works Director  
Tom Armstrong, Licensing, Planning & Permitting Supervisor

APPROVAL OF AGENDA

Mayor Miller entertained a motion to approve the agenda. Motion was made by Councilor Olivo and seconded by Councilor Miller 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 Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF MARCH 23, 2005 REGULAR MEETING

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the Minutes of the February 28, 2005 regular meeting. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF APRIL 5, 2005 SPECIAL MEETING

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the Minutes of the February 28, 2005 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 Garrett to approve the Accounts Payable. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

### UNFINISHED BUSINESS

None

### OTHER BUSINESS

Mayor Miller asked Administrator Waters to inform us on the grants received and those that will be received. Administrator Waters said I am happy to report that as of Friday, April 8, 2005, Governor Richardson signed three grants into existence for us. We have a \$200,000 General Fund grant from the Governor's own State funds, \$200,000 in Severance Tax Bond money that was introduced by Dub Williams and \$300,000 in Severance Tax Bond money that was introduced by Rod Adair. That equals \$700,000 for our emergency water projects here so I believe we can go ahead and get started on our water project. You will note that we already have approximately \$200,000 budgeted for this year in response to the water emergency from back in August. We finally got the leverage matching money for that. The good thing about this grant is with the amount of money we already have budgeted this year this isn't even going to come out of the proposed budget for next year. In addition, we also were awarded and we have the official document from David Ruiz of the Local Government Division of \$500,000 for the water line replacement and construction project that is also related to this. This will allow us to put in water lines, it will allow us to take water from the new well and put it both up into the reservoirs as well as the west side of town where it is needed badly. In addition, and a side note of this is, if Ruidoso ever needs water and we are able to provide it, this 12 inch line that goes down the highway would be able to provide them a large quantity of water at least to the lower areas of their east side of town. Certainly the help from the Council and certainly the Governor's help, he made an agreement with the two legislators, Senator Adair and Representative Williams and they all three supported these projects. Definitely if you get a chance to talk to Representative Williams, Senator Adair and certainly Governor Richardson it would be great to express your appreciation because this was a deal even the Municipal League and Dan Foley used us as an example for ways to get money for single projects is to try to work out a coalition. It's a great deal and by the way the most money in grant money we've received in a year to my recollection ever; it puts us now at \$1.24 million for the year in grant monies. Certainly it is for a needed project in getting our water system on line. We are going to continue; we have a few more floating around. Some street project grants and the Parker Road bridge project. We should be able to start before the end of this fiscal year on our water project and complete it by fall assuming that nothing goes wrong.

Councilor Miller said we have something here we want to make the public aware of. I want to make a public presentation to Rene Olivo. He is the first councilperson to

complete the Local Government Leadership Program. He worked very hard to do this; I am just going to my second conference and Rene went to five to complete this. The Local Government Leadership Program presented this to Rene Olivo in recognition of outstanding leadership experience and dedicated service to the State of New Mexico, the New Mexico Association of Counties Board of Directors, the New Mexico Municipal League Board of Directors and the Leadership New Mexico Board of Directors hereby confer upon Rene G. Olivo Certificate of Achievement with confidence and expectation of continued leadership in meeting challenges and improving the lives of the citizens of the State of New Mexico. Congratulations, Rene! Councilor Olivo said I want to thank the Mayor and his staff for letting me go to these classes and I look forward to working with all of the council to show you what I learned. Councilor Miller said he is the first one in the county to finish this program.

Councilor Garrett said after the conversation about cleanup, I spoke to Debra Ingle at Lincoln County Solid Waste and to Don Coleman. They are willing to do a large cleanup of furniture and appliances. If they could do that they would like to do it the first week in May after the holiday. It would take place of picking up limbs because they said we didn't have a lot of limbs last time and that way they could go through town and pick up anything anyone wanted to put out by the side of the street. I think that would be really helpful. Councilor Miller asked is this at no charge. Councilor Garrett said the City will have to pay just like we would if they took it there but they will take their grappling truck and pick it up. Councilor Morales asked did you mean May or June because you said after the holiday. Councilor Garrett said we need to double check because I think it is one date and Don thinks it is another but Debra is out of town. Are we going to have a newsletter go out between now and then?

Administrator Waters said the Mayor instructed me this morning to proceed with one; I think we are shooting for April 22nd for the next newsletter. Councilor Garrett said that would give us plenty of time to get it in there and maybe on the water bills.

Councilor Miller said I still want to invite Debra Ingle to our Beautification Committee meeting Wednesday at 4:00 p.m. I will call her. We still would like to see something happen where they could be open four hours every Saturday. If someone could manage that and take an hour off every day but we need it every Saturday so people get in the habit of something that is consistent.

Don Coleman said everything needs to be separated and not together. Councilor Garrett said we can talk to Debra and asked Administrator Waters to do that to get the rules to put in the newsletter.

## NEW BUSINESS

Mayor Miller stated next item on the agenda, discussion of an Employee of the Month Program. Councilor Olivo said this is one of my problems. I want the City to start building a better relationship between us and the employees. Carol has provided us with some material which you have in front of you. We have 43 employees and I want to do it monthly. We have a questionnaire and do you want to go with that. I would like to start with it this coming month with the award given out. Not being in the budget, we all agreed that the Council would pay for it until it was put in the budget. Councilor Garrett asked are you going to do it like the County, one department at a time or do you want to do it at large. Councilor Olivo said no, for each employee and the employees vote on it. Councilor Morales said would we want to take out No. 7 and Councilor Olivo said yes because they give a safety award every year. Clerk Virden said another question that came up was if the Council sees fit to do this, this would not include the department heads or supervisors. Councilor Morales said I personally think we should include all employees. Councilor Miller and Councilor Garrett agreed. Councilor Olivo asked for it to be voted on at the next Council meeting.

Mayor Miller stated next item on the agenda, Committee Reports, Parks and Recreation Report, Bonnie Richardson, Chairperson. Ms. Richardson said she had no report.

Mayor Miller stated next item under Committee Reports, Planning and Zoning, Paul van Gulick, Chairperson.

Mr. van Gulick said the first item regards a replat of the Scrimshire properties. My understanding of what is going on is Barbara Green has bought some property from Harlan Scrimshire and this is an attempt to resolve the conflict between deed lines and what she agreed to purchase. The bottom line is it has no practical affect on existing roads, access, fire or safety. In her ongoing effort to resolve any difficulty she may have, this is the latest and presumably final attempt in doing that. Are there any questions on that plat?

Councilor Garrett said I am assuming that everyone else is in agreement with this as far as the other people involved around the area. Mr. van Gulick said in this particular case it is even interior boundary lines to what is already owned by the Green's and Harland Scrimshire so it has no practical affect on anybody but them. My recommendation is to approve the replat as submitted.

Mayor Miller entertained a motion to approve. Councilor Garrett moved to approve the replat of of Tract 1A of the Scrimshire Tracts. Seconded by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mr. van Gulick said the second item Planning and Zoning has to bring before you is consideration of approval of the final of the Avalon Tracts requested by Don

Murphy who is here tonight along with Tim Collins who is representing him in this matter. During our hearing we have this information to give you. Don Murphy has previously appeared before with a preliminary plat in March to create seven tracts west of the racetrack and now he is requesting approval of the final plat. In particular this is being requested in advance of presenting definite plans for the development of the tracts. Mitigating circumstances for this request are as follows: Mr. Murphy makes the case that approval is necessary in order to create the tracts so he may purchase them in the first place. There is an existing 60 foot road easement that serves all of the tracts and actually a road more or less in place with a bridge almost completed. There will be a transfer of significant amount of water rights to the City and the conditions for approval are clearly enumerated on the plat. These conditions are also in accordance with the requirements of the subdivision ordinances. In doing this a little out of order, that is to say creating the tracts and then complying with the rest of the zoning ordinances in terms of development, this reserves that ability to regulate it. Also Dan has some reservations that are on record that I will enumerate in a moment that I think also protect the City in this matter. There was one protest entered by Shane Garner who was represented by his attorney, Alan Morel. Mr. Garner wants access to the lighted intersection across from Wal-Mart. His concerns are that the existing road easement is 40 feet from his tract and he would not have access to the intersection even when it eventually becomes a public road. Mr. Murphy's counter concern was that he doesn't want to allow access to heavy commercial use, for example a truck repair. Mr. Garner was then further concerned that the development of the lighted intersection that excludes his access to it would also interfere with an alternate highway access that he might have to design. This was a matter for much discussion. Ultimately they go to questions of engineering design and would have to be presented when Mr. Murphy presents any site development plan as would be required by our ordinances in any case. Dan Bryant recommended approval of the final plat include provisions that are intended to protect the rights of the City, Mr. Murphy and Mr. Garner. These are in the Minutes of the meeting and are summarized as follows. For future discussion with the right-of-way, to reserve for future discussion the design of the intersection and the need for acceleration or deceleration lanes and the impact on Mr. Garner's property to the west; to reserve as an issue the access to Mr. Garner's property to the west to ensure that when the existing road easement becomes a public road the City will not have to buy the right-of-way; to determine who will pay for construction of water and sewer lines and the traffic light. With these reservations submitted by our attorney and with those conditions for approval clearly shown on the plat, our recommendation is to approve the final plat as presented to us.

Attorney Bryant said at the time of the Planning and Zoning meeting, I agreed to host a telephone conference meeting between Mr. Garner and his lawyer, Joetyne Wright, Mr. Murphy and his lawyer. We did that on Friday morning. Significant progress was made in terms of getting everybody comfortable with everybody else's ideas about what was going to be going on in the area. I don't think I can

characterize it as having successfully worked out a complete agreement but I think they got rid of what I would characterize as 85 or 90 percent of the issues between the parties. Unfortunately, Mr. Morel was obligated to be in a settlement conference in Albuquerque today so I had limited access to him. As I understand it those discussions are ongoing even as we meet tonight but I think they made a little more progress just in terms of working out everyone's concerns. Don may know more about that. For your benefit as a City Council this is essentially the first development of any import that you are dealing with on the north side of the river. It is our first look at what do we want that part of our community to look like, how do we want to get traffic in and out of there and across the river and out to Highway 70. Because of the circumstances of the transaction and certain federal rules that apply with how soon things have to be done we didn't have the luxury of waiting for that entire development plan to be fleshed out before these legal descriptions have to be set down with some certainty so that the transaction could be closed. Essentially what the City has been asked to do is to relax its rules to the extent that we are approving the plat but we are reserving those important development issues that were summarized by Mr. van Gulick for future work by the Planning and Zoning Commission when the site development plan gets submitted. When we do all of that, that is when we look at all of those issues. Mr. Gens, I think you will be involved from your position in Public Works. One thing for you to keep in mind, at the present moment, we have a bridge up in the vicinity of Foxworth-Galbraith. We have the proposed bridge presented in this plat and then we have the bridge on North Parker. We are looking at the whole north side of the river from one end of town to the other. We have to think about how do we get people in and out of there and across the river and what makes sense and how many bridges does this municipality want to build. The development process is the appropriate place to do that. I feel like in the Minutes of the Planning and Zoning meeting and as summarized by Mr. van Gulick we have reserved the issues appropriately to handle in the development part of this. To be sure, we are not satisfying 100 percent the request that was made by Mr. Garner to the Planning and Zoning which was to simply work out all the access issues visa vie his property to the west of this before we approved the plat. We haven't done that but I think we have laid enough framework that we will be able to make all of those things work as we do the development plan.

Mayor Miller asked Mr. Murphy if he would like to comment. Don Murphy of Avalon Property Company said first of all I would like to thank a couple of people plus the Planning and Zoning staff for being very considerate of this request. As everyone could tell, it is kind of an unusual request whenever you are trying to purchase a piece of property and it doesn't have the proper legal description so you have to have it platted. This is a large tract, 80 acres and it is going to take quite a few phases to develop it so we just don't have a plan we can bring in and say here is what we have today. We have an idea what the first phase will be but we have some commercial out on the highway and residential behind it. I was instrumental in helping your City manager negotiate a water rights contract that is just about

approved now that will ensure there will be water rights to completely service this entire 80 acre tract over the four or five years that it will take for me to develop it. Everyone has been very helpful especially your City manager, John Waters and Dan Bryant and your Planning and Zoning director in giving me some good guidance here. In response to your question about agreements with the adjoining landowners, we are almost there. They sent me something in writing that was just about what it would take to make it work but not quite. The main issue I have is with the type of uses I would not want at all as a neighbor. If I was going to share access across 46 feet of my property, I wouldn't want an automotive dealership there and some of the service oriented businesses that I think would not improve that stretch of the highway; you can't regress you have to advance. They have agreed to all those in the form of deed restrictions. I have also agreed I would not allow those uses on my property too. We made some progress and I am going to bring a little of the city approach that I have had over the years to this little stretch over here to my neighbors. They are not as experienced as I am in this business. I think they came around after a little bit of discussion but we are almost there. The main thing is we are agreed on the fact that these uses will not be allowed on either property so that is the good part.

Mayor Miller entertained a motion to approve. Councilor Miller moved to approve the final plat of the Avalon Tracts requested by Don Murphy with the certain provisions that are intended to protect the rights of the City. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

#### PUBLIC INPUT

Don Coleman said I want to thank a couple of individuals and some council people. I have heard a lot of criticism of some of our employees at council meetings in the past. I have got some information from 1997 to 2001, the people that get grants for this Village got \$188,000. From 2001 to the present time under Mr. Waters we have gotten over \$4,000,000. I want to thank especially Councilor Morales and Councilor Miller and Mayor Bob Miller for having the foresight to hire this gentleman because you can see what he has accomplished. We wouldn't be where we are today if we didn't have a man of his capabilities to get the money for us. Also I would like to talk about our Director of Public Works. I have known him a short time but for 31 years I was in the same position in a municipality. He does a good job but he needs money and he needs help. Instead of criticizing all of these employees, let's get behind them, appreciate them and help them for what they do. So many times we want to criticize and not say thank you. So I want to say thank you especially to these two gentlemen. I noticed in paying my water bill where my street is now for paving and sewer. I wish you could take that money and pave Central and some of the other streets that are in bad shape that need it. I know Dan is capable of doing it if you just give him the money to do it with. Thank you.

Don Murphy said since I am a newly platted property owner, I would like to say something. The gentleman just made some good points in addressing the needs of the employees of the city. I have worked with numerous cities in three different states and it is always the case in smaller towns that you can't really keep good people unless you pay them well. It is hard for small towns to pay these city employees what they deserve. A lot of them hang around and stay on for little money or less money than they should be making. If there is ever an opportunity for this city to increase the salaries of their city employees and public works, from the city manager on down, I think they do a good job. I have had a good working relationship with your city manager here as I have had anywhere. You have a very proactive, pro-business, go out and find a way solution type man working for you so I think you are very fortunate there. I just want to commend your hiring of him and he does a good job. Thank you.

Bonnie Richardson said I am president of Ruidoso Gymnastics. Last December we had our competitive gymnastics meet at Albuquerque and much to my embarrassment I don't remember how many first place State titles our girls brought home but there were several. This afternoon I was made aware that we have three sisters, all from this town, they are the Webb girls, Wilma Webb's grandchildren. Streisand brought home first place in Level 9 in the optional meet about two or three weeks ago. Her sister, Savannah, brought home Level 5 state championship and her younger sister, Stephanie, brought home the Level 4 state championship. This has to be an all time record. They have set us some impossible goals for the future but we are very proud of these girls and all of our girls in gymnastics, our coaches and our parents who support the program very much. Thank you.

Councilor Miller said she did a lot for my daughter. She started in Ruidoso Gymnastics and now she is a coach at the Las Cruces Gymnastics and is also a judge.

#### EXECUTIVE SESSION

Mayor Miller entertained a motion to go into Executive Session pursuant to Section 10-15-1(H)7, Litigation - Threatening and or Pending Litigation EPA Administrative Order - Forest Guardian.

Motion was made by Councilor Miller to go into executive session pursuant to Section 10-15-1(H)7, Litigation - Threatening and or Pending Litigation EPA Administrative Order - Forest Guardian. Seconded by Councilor Morales. 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 6:07 p.m. Mayor Miller called for a five minute recess to clear the Council chambers.

Mayor Miller called the regular meeting back in session at 6:28 p.m. Councilor Morales attested that the only item discussed in executive session pursuant to Section 10-15-1(H)7, Threatening and or Pending Litigation regarding the EPA Administrative Order and Forest Guardian and no action was taken.

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 entertained a motion to consider action pursuant to Section 10-15-1(H)7 Litigation - Threatening or Pending Litigation.

Councilor Garrett moved to authorize Ned Kendrick to accept service of the Forest Guardian lawsuit on behalf of the City of Ruidoso Downs. 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 Morales and seconded by Councilor Garrett to adjourn at 6:29 p.m. Motion passed unanimously.

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Bob A. Miller, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer