

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
APRIL 25, 2005

The Council of the City of Ruidoso Downs met in regular session on April 25, 2005. Mayor Miller called the meeting to order at 5:30 p.m. and asked Don Coleman 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:

Dan Bryant, City Attorney  
John P. Waters, City Administrator  
Carol Virden, City Clerk/Treasurer  
Robert Denny, Lieutenant, Department of Public Safety Director  
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 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 Miller 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 APRIL 11, 2005 REGULAR MEETING

Motion was made by Councilor Miller and seconded by Councilor Garrett to approve the Minutes of the April 11, 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 Miller 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.

## MONTHLY REPORTS

Motion was made by Councilor Miller 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 votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

## UNFINISHED BUSINESS

None

## OTHER BUSINESS

Councilor Garrett said I would like to see us testing the effluent. I have talked to Dan about this as it comes into the City and as it goes out of the City so we know our phosphate level that we are putting in. If we knew at the beginning of our line, we don't have the restaurants or the other things that produce the problems. I was wondering if at least we could look into that.

Administrator Waters said that is something we can do. Of course, we are going to have to look and see where the manholes are. Putting a sampling tap on would be kind of expensive especially on the interceptor. We do have one at Hollywood that we could sample and we could sample one of the manholes that is downstream of the city limits past Conley's Nursery. There are two or three manholes there but I don't know which one is closer to the city limits. We can put together a cost proposal to run those samples because we don't have the ability to test phosphorus samples here so we either buy the equipment to do the test or send it off to a New Mexico State SWOT lab.

Councilor Garrett said as a city I would like to see us know what we actually contribute because the cost of treating sewage depends upon what you put into the line. I know we don't have the restaurants that put the grease in the line that we do have in Ruidoso. If at all possible, I think that might just help us. Is that possible to look into? Administrator Waters said he would.

## NEW BUSINESS

Mayor Miller stated first item under New Business, consider approving Employee of the Month program. Councilor Olivo said you have the form there and I think everyone agrees to go ahead with the program. Do I hear a motion to go ahead and accept. I think we should get started to improve our relationship with our employees.

Councilor Garrett moved to approve Employee of the Month program. Seconded by Councilor Morales. Councilor Garrett said if we see that it is too often, we might

adjust it but I think once a month is fine. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller said the next two items on the agenda, consider approval of trip to Washington, D.C. for wastewater issues and consider approving out of state travel expenses, should be intermingled.

Attorney Bryant said we have reached the point in the development of the expansion to the wastewater treatment plant and the trading program where it is time for representatives from the two municipalities to go to Washington, D.C. to meet with officials from the EPA and with our federal legislative delegation, your senator and congressman, to talk about how do we fund the capital structure and what kind of support can we get for the trading program. The trip is tentatively scheduled to begin on Sunday, May 22nd with the appointments occurring on Monday the 23rd and early on Tuesday the 24th and return back to the community on the 24th. Washington is not an easy place to get to from here and Washington is not an inexpensive place to stay. We have investigated the costs and essentially what happened was Ruidoso tasked Molzen-Corbin with getting the reservations made for airfare and hotel rooms. Hotel rooms in the D.C. area are \$229.95 a night. There are two nights per person. They are asking that we send the mayor, the manager and the lawyer. Ruidoso is sending the mayor, the manager and the lawyer. Molzen-Corbin is sending two of their engineers. Eddie Livingston from Livingston and Associates is going to be answering questions on water quality in the stream and the trading program so it is going to be a large group. When you put it all together, the hotel rooms for two nights are \$459.90 per person or for three people that is \$1,379.70. The roundtrip airfare for all three would be \$1,415.40 for a grand total of \$2,795.10. These numbers do not include the meals and there may be some incidentals such as a rental car. I would expect Molzen-Corbin to rent a van big enough to haul everybody where we have to go but I don't know that. It gets you within a few hundred dollars of what the cost would be.

Councilor Garrett asked is this coming from the wastewater treatment fund or coming from each city individually. Attorney Bryant said each city individually is going to pay for their three representatives. The cost for Molzen-Corbin and Eddie Livingston will be paid by JUAB.

Councilor Miller asked do we have this in our budget. Administrator Waters said we will have to make a budget adjustment for the legal department and the legislative department to allow for the Mayor and Mr. Bryant. There is currently money in the executive line item for this. Councilor Miller said if this \$3,000 will save us \$3 million then you can go.

Attorney Bryant said I think the goal of this trip is to generate significantly more than merely \$3 million to assist with the construction cost. The motion would need

to be to approve the trip to Washington, D.C. and then to increase the out-of-state travel budget.

Councilor Garrett moved to approve the trip to Washington, D.C. for the wastewater issues and approve the out-of-state expenditures. 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 recommendations of appointments to the Planning & Zoning Committee. Mayor Miller asked that this item be tabled for further discussion because I am making some additions to other committees.

Councilor Morales moved to table the recommendations of appointments to the Planning & Zoning Committee. 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 awarding Bid No. 05-004, new Spring Tank Reservoir.

Administrator Waters said the City Clerk and Purchasing Manager held a bid award conference. We had two bidders and our lowest bidder was Carl Kelley Construction. The other bidder was Guardiola Construction. Carl Kelley Construction came in for the base bid at \$449,800.00 and Guardiola Construction came in at \$550,596.80. With the Alternate No. 1, which is the bigger capacity tank, \$576,833 for Guardiola and Carl Kelley had \$465,800. Carl Kelley fit within the budget and was the lowest qualified bidder for the project. That project is scheduled to start soon upon the award of this bid. We are asking the Council to approve to award to Carl Kelley Construction with D&R Tanks providing the steel tank as a subcontractor. D&R have put in quite a few tanks throughout New Mexico including a couple of the larger ones they have in Ruidoso. They have worked with our engineering firm before and our engineering firm was satisfied with that. I do know there was some question as to whether we wanted to go with the current bidder. Dan Gens talked to our engineer today.

Mr. Gens said I received a lot of this information very late so I called the engineer today to express some of my concerns on the project. He assured me that they actually had extra monies that they didn't spend on the surveying and that they could bring their crew out onsite to guarantee that tests are being done and could supervise to make sure everything is done according to contract. I spoke at length with Charlie Leder about my concerns. He assured me that they would be onsite taking care of everything and would all go as planned. I had spoken to Charlie before the contract was let out about some of our compactions and making sure we test at least every six inches. We have an outside source. Part of the contract is that

there will be an independent outside source so that neither the engineer nor the contractor will be performing the analysis to guarantee that we get good compaction on everything and runs according to contract. I feel we can go with this and we just need to maintain that the engineer stays on and is in the field on a regular basis.

Mayor Miller asked do you feel comfortable with this. Mr. Gens said I think we will have a decent project. I will be staying on top of it and working with the engineer on a regular basis.

Councilor Olivo asked do you feel better now that you have talked to the engineer. Mr. Gens said since I talked to the engineer I feel a lot better and I put a lot of the weight on his shoulders. I told him that he needs to stay on top of everything all the way through the project and make sure things are done according to the plans all the way through.

Councilor Morales asked are we doing the 900,000 gallon or the 1,000,000 gallon tank. Administrator Waters said I believe we had enough to actually go ahead with the 1,000,000 plus the GRT. The total for the whole project is going to be \$497,532. If we had gone with the other one we wouldn't have had enough money to complete the project with the monies that we have. This is a pretty good price and certainly one of the lion's share of the cost here is going to be the tank. D&R gave us a good deal on it.

Councilor Olivo asked is it going to be finished by summer. Administrator Waters said that is our goal to get this tank on line before the summer is out. We are going to really push hard to do that. From what I have been told what takes the longest with this is going to be the dirt work and the compaction tests. They are going to make sure it is sitting on solid ground before you fill it with a million gallons of water.

Mr. Gens said the other thing I requested is that myself, John Waters and Terri Mosley all get copies as soon as the test results are in. All three of us get the test results and all three of us get to review it before any work continues. Mayor Miller asked are you going to sign off on what you agree with. Mr. Gens answered yes and it will also go to Mr. Waters and Ms. Mosley. The engineers are going to have to make sure it is done on a routine basis.

Councilor Olivo moved to approve awarding Bid No. 05-004, New Spring Tank Reservoir to Carl Kelley Construction. Seconded by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

#### PUBLIC INPUT

Wayne Williams said now that we are getting close to race time here in the Downs, we are starting to get people stopping by my house everyday asking about that

trailer down by the end. I tell them as far as I know the Mayor is in charge of it. If you want to rent it you can talk to him. Mayor Miller said that is not entirely true. Mr. Williams said I didn't say I was totally truthful but the thing of it is, it's been five or six months since you passed that ordinance to get it cleaned up. The last information I got was from the lawyer's office who said they had to post it in the paper for ten days but that has been two months ago. Before this race season starts I don't want that drug problem down there again this year. Last year we had the police driving around the block and they did a good job of patrolling the area but they didn't stop any of the drug traffic. There is no sense in even getting it started.

Attorney Bryant said when I got back from Taos this week, I had a message from Mr. Dunlap that posting had been made and that the ten days has expired. Now we have to go to work with either Mr. Gens of Public Works to do the demolition or to contract a demolition out in exchange for salvage value to the extent that we can. If the City incurs costs in either process, we then file a lien against the real property and then we have a year to bring an action to foreclose that lien. We are essentially ready to remove it ourselves or bid that out to a private contractor to try and reduce the cost to the City in exchange for the salvage value of whatever materials they find in the cleanup.

Mr. Williams said I have a suggestion. You have a Fire Department here that hadn't had to fight a fire in a few days. It would be good practice, good training to watch it and see that it didn't get away and what you would have left wouldn't be much.

Attorney Bryant said we can evaluate that as a training exercise. Unfortunately, due to some similar training exercises in which some firefighters lost their lives, we now have a set of OSHA rules that deal with when we can and cannot use a dilapidated structure for a fire training exercise and we will have to, of course, follow the dictates of those rules to make sure we don't violate them.

Mr. Williams said now would be the time before it gets real hot and dry. But, this is a real problem. We had people stopping there all hours of the night roaming through it and we just don't need that kind of traffic down there.

Mr. Gens said Mr. Dunlap and myself were onsite looking at this project. He contacted me to see if the public works crew could clean up this property. The trailer is a problem to move out. We were lucky enough as we were there another gentlemen that has been involved in this project who lives near that area came by and was able to contact the person who owns this property. Bill explained some of his options to him, removal of the trailer and the like. It was a common agreement that we would try to find a contractor as cheap as we could, bill that to the property owner and then this other gentleman agreed to come in and clean the remainder of the property. I think they are very close to getting this taken care of.

Don Coleman said I am representing Lincoln County Solid Waste Authority and I have some good news. We would like to invite all of you out to our groundbreaking ceremonies tomorrow afternoon at 4:30 p.m. In fact, we have asked the Mayor to take the golden shovel and break the ground with some more people. Also, to everybody in the audience, we would love to have everyone out. It is located just before you get to Conley's on the south side. We will be parking in the highway right-of-way and going through a little gate into the property to do the groundbreaking. I would also like to remind you that on the 30th, this coming Saturday, they are having a cleanup. We will be open from 8:00 a.m. until 4:00 p.m. If you will bring us your garbage maybe we can get the town cleaned up. Also, on the 31st of May, we have arranged to have a household cleanup. In other words you can put your furniture, couches and your white goods which consists of washing machines, refrigerators and so forth. We will be picking up that week starting on Tuesday and running through Friday of that week but don't put it out on Thursday because we may have come by your house on Tuesday. Try to get it done prior to Tuesday and we will get it cleaned up that week. Be sure to separate your white goods from your other household goods because those will be picked in a pickup with a tailgate and the household goods will be picked up by a grapple truck. Also, on the 27th of June, we will be picking up limbs that week.

Councilor Miller said on Saturday on our drive through we saw a lot of limbs. I don't know if your group did also. Mr. Coleman said yes, we did see some. When we start our cycle over again, John convinced them to put us number one on the list. Councilor Miller said that is a long time for them to lay out there. Maybe we can get the chipper out to help us.

Councilor Miller said I want to announce that our cleanup for town and the highway will be this coming Saturday. We are going to meet at the Senior Center at 8:00 a.m. Pick up your T-shirt, gloves, bags, get a ticket because after we clean up we are going to come back to the Senior Center and we are going to eat. We will probably have hotdogs, chips, cokes and water. I hope to have donuts and coffee in the morning also. Robert Denny and his wife will be on the scene. They play some great music and announce our prize giveaways. We are concentrating mostly on the highway. If you see some side streets go ahead and get them. Solid Waste will be open from 8:00 a.m. to 4:00 p.m. so everybody is welcome to take their own stuff over there. The bags will be picked up along the road by our City as we fill them. Everybody come out. Let's have a community get together and have a lot of fun. Everyone is invited.

Councilor Olivo said we are making progress. If you want to see something drive down Turkey Canyon; they have finally started working on it. They should have it done by the end of this month.

EXECUTIVE SESSION

Mayor Miller entertained a motion to go into Executive Session pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H) 7, Threatening and/or pending Litigation reference EPA Administrative Order/Forest Guardians.

Motion was made by Councilor Morales to go into Executive Session pursuant to Section 10-15-1 Subparagraph (H) 7, Threatening and/or pending Litigation reference EPA Administrative Order/Forest Guardians. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller closed the regular meeting at 6:04 p.m. I would like to invite City Attorney Bryant, City Administrator Waters and City Clerk Virden to attend the Executive Session and called for a five-minute recess to clear the Council chambers.

Mayor Miller called the regular meeting back in session at 7:03 p.m.

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.

Councilor Morales attested that the only item discussed in Executive Session was pursuant to Section 10-15-1(H)7, Litigation reference the EPA Administrative Order and Forest Guardians and no action was taken.

Mayor Miller entertained a motion to consider possible action pursuant to Section 10-15-1(H)7, Litigation. No motion was made.

Mayor Miller entertained a motion to adjourn.

Motion was made by Councilor Miller and seconded by Councilor Morales to adjourn at 7:04 p.m. Motion passed unanimously.

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Bob A. Miller, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer

