

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
AUGUST 8, 2005

The Council of the City of Ruidoso Downs met in regular session on August 8, 2005. Mayor Miller called the meeting to order at 5:30 p.m. and asked Betty Beavers 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, Department of Public Safety Director
Dan Gens, Public Works Director

APPROVAL OF AGENDA

Mayor Miller removed Item 8.A., Consider approving Resolution No. 2005-13 Infrastructure Capital Improvement Plan, and Item 11.G., Consider approving Personnel Action Promotion , DPS, Lieutenant Robert Olshaskie from the agenda to be put on the next agenda. Mayor Miller entertained a motion to approve the agenda. Councilor Olivo moved to approve the Agenda. Seconded by Councilor Morales. 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 Olivo moved to approve the Consent Agenda after pulling Page 3 of Accounts Payables, Street Department, General Fund, Item 11.C., Consider awarding RFP No. 05-03 Professional Services, Southwest Quarter Sewer Extension and 11.D., Consider rejecting and rebid Bid No. 05-007 Drainage Project Construction Phase I for discussion. 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 JULY 25, 2005 REGULAR MEETING

Motion was made by Councilor Olivo and seconded by Councilor Garrett to approve the Minutes of the July 25, 2005 regular meeting. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

ACCOUNTS PAYABLE

Councilor Olivo said on Page 3 of the General Fund for Street Department, there is a bill for \$512.70 to R.L. Baker Electric Company to assist with light repairs. Why are we paying Ray Baker when we hired an electrician ourselves? Public Works Director Gens said the reason we hired Baker on this project is because streetlights are somewhat complicated. We had one where the wires were pulled completely out. We didn't have the equipment to pull those wires back in and our electrician needed a little bit of training so that from now on he will know exactly what to do with the different poles and boxes they run off of. It was more of a training session plus that piece of equipment that we didn't have. We hired his firm as a one-shot deal for a training session and to get our system up and running. Also for an explanation on Christmas lights, we are going to be putting more outlets on a pole. Previous to hiring the electrician, I have worked with this company through the State Engineer on how we can do these things so he needed to explain that to our electrician. Councilor Miller asked is there a difference in licensing. Mr. Gens said Mark has his journeyman's license and Baker hasn't gotten his yet so he is actually more advanced on that but Baker had done all of this work previously so he was very familiar with the whole system. It is a rather complicated system and there were a lot of things we needed to know. I thought it was valuable that we learn these things so we don't have to hire him down the road. In the long run it will save us time and money. Councilor Garrett asked do you think this Christmas we will be able to keep the lights on, sections go out. Mr. Gens said that is one of things I was working with Mr. Baker on. Per Mr. Waters request is find a way to raise those GFI's up or eliminate the GFI's so they are not constantly kicking out. We did visit with the State Engineer and we do have a way to put in temporary piping so we can raise that up above the water or where people can't tamper with it. We can install our Christmas lights as a temporary setup. Administrator Waters said by State Engineer, Dan means the State Electrical Inspector. Motion was made by Councilor Garrett and seconded by Councilor Miller to approve the Accounts Payable. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

UNFINISHED BUSINESS

Mayor Miller said I am asking to consider lifting fire restrictions. Administrator Waters said this item was tabled at the last Council meeting. As per the rules it has to come up again. However, the Mayor did put out a notice back when it started raining reducing our fire restrictions. The Forest Service and the neighboring village have all rescinded theirs and this is just formally asking the Council to rescind that. The Mayor does have the authority to rescind it until the next Council meeting.

Councilor Morales moved to rescind the fire restrictions. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

PUBLIC HEARING

Mayor Miller stated next item on the agenda, Ordinance No. 2005-06, an Ordinance of the Governing body of the City of Ruidoso Downs, New Mexico adopting the 2005 Amendments to the 2004 compilation of the 2004 Uniform Traffic Ordinance.

I hereby open the Public Hearing for comments and will be accepted in the following order, interested persons will approach the podium, one at a time, state their name and present their testimony. A limit of three minutes will be allowed per person.

Are there any persons here to speak in opposition of the action? There was no one to speak in opposition of the ordinance.

Mayor Miller asked are there any persons here to speak in support of the action? Attorney Bryant said by way of explanation, in virtually every legislative session the legislature tinkers with the New Mexico Uniform Traffic Ordinance. Pursuant to statute, municipalities adopt the New Mexico Uniform Traffic Ordinance by reference as opposed to having a complete traffic ordinance that is written in separate words which means the courts have to interpret it separately. It really streamlines the system. In 2005, the legislature made a number of changes. For everybody's knowledge and edification and perhaps the press will take some special pains with this part of it, starting with Section 12-7-1 all the way through the end 12-7-10, the legislature tinkered with the rules about motorcycle riding and ATV off road use. There are a host of new regulations governing use of those vehicles. An example is anybody under 18 riding an ATV anywhere in New Mexico now has to wear a helmet. The legislature did delay the effective date of that part of their amendment so 12-7-1 through the end will go into effect on January 1, 2006 and we have made that provision in our Ordinance. The balance of the changes, Section 12-1-67 through 12-6-13.12, will all go into effect in Ruidoso Downs five days after tomorrow because the Clerk will record the Ordinance in her book and City Ordinances have a five day waiting period and then they go into effect. Clerk Virden said it will become effective five days after publication.

Mayor Miller closed the public hearing and entertained a motion to pass, approve and adopt Ordinance No. 2005-06. Councilor Miller moved to pass, approve and adopt Ordinance No. 2005-06, an Ordinance of the Governing body of the City of Ruidoso Downs, New Mexico adopting the 2005 Amendments to the 2004 compilation of the 2004 Uniform Traffic Ordinance. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

OTHER BUSINESS

Mayor Miller said next item on the agenda, recognition of July 2005 Employee of the Month, Communication Detention Officer. Chief Denny said I would like to recognize Dawn Hightower and asked her to stand. She received several nominations for Communication Detention Officer. She graduated number one out of 35 in her class in February. One of the letters written about her states she is very quick to help others and

very good in teaching others the way of dispatching. She is a very nice person to work with and she is very dedicated to her job going one step more than required for her to do. She is very safe minded in all areas of her duties. She has taken on quite a bit of responsibilities since Ann Hatter left. She has really stepped up and helped us quite a bit especially early on in her career as a CDO. She is this month's winner for the Employee of the Month. Everyone congratulated Dawn.

Chief Denny said I would like to take a moment to announce this was my pet project, the first one I wanted to get completed we finally have the Standard Operating Procedures completed and have been issued to every officer. There are 52 of them. I will make copies for each of the Council members.

NEW BUSINESS

Mayor Miller stated next item on the agenda, Doug McAlister, presentation of Sierra Blanca Regional Airport. Mr. McAlister thanked everyone for having him and presented a slide presentation. I am a resident of Ruidoso. My wife and I own a couple of businesses there as well as a few houses. We just invested in Ruidoso and don't gain anything off of this except for our pleasure of flying wherever we want to. A group called Fly Ruidoso, a non-profit group, consists of different business people in Lincoln County and we put together this group last year. We are looking at bringing jet service into Sierra Blanca Regional Airport non-stop from Dallas/Ft. Worth. We have hired a consultant; his name is Kent Myers. He was supposed to be here tonight but his flight was cancelled this morning. Mr. Myers owns a company called Air Planners and this is what he does for a living. He brings air service into resort areas around the country. Our goal is to bring jet service into Ruidoso. The benefits are to enhance the travel of the tourists and enhance our lives as far as citizens of Lincoln County to fly into a metropolitan area or have connections such as Dallas/Ft. Worth to anywhere in the world. Also we will be able to get freight in here more expediently and actually have a 10:00 a.m. FedEx and UPS delivered. Our points of success is Mr. Myers of Air Planners has been very successful with this; he has done this in Vail, Telluride, Jackson Hole, Wyoming, Dennison, Colorado, a couple of places in Canada and he is working in Monterrey, California at this time. We are negotiating with American Airlines to bring this into our community. Community organization such as Fly Ruidoso and members of that group are from Inn of the Mountain Gods, Rainmakers, the Ruidoso Board of Realtors, River Crossing and the Hubbard organization. My goal here today is to just inform you; I am not here asking for any money although we may come back some day and ask for some. We have applied for a \$600,000 USDOT grant. We are the only municipality in the State of New Mexico that is in the running for that grant or that actually applied for it. The Federal DOT gives up to \$600,000 to each state for small airport development such as bringing in air service each year. We are very hopeful to get that and we should know by some time in September. We have also applied for a State of New Mexico DOT grant and we are meeting with the Director of Aviation of the DOT, Tom Baca, Wednesday at the airport to go over a few details. Again, we are the only municipality to date to apply for that grant as well and that can be up to \$200,000. Basically we are here asking for your support tonight. Of course the benefits

is the economy. We will have new businesses coming to town, rental car businesses, real estate values which don't need a whole lot of help, new jobs such as rent-a-car agencies, ground transportation and of course the airline itself and security employment. If we get this going we will be the only municipality in the State of New Mexico that offers jet service besides Albuquerque and medical emergencies. The only way this can work and the way it has worked in the past in these other resort areas is the community has to get involved both support and financial support. The last few times airline service came into Ruidoso you have had an airline working directly with a local government. The airline said we are not making money so give me some money to subsidize this. They do that and it is a bad fit. We will be negotiating with the airline sometime in October as far as what it is going to cost to fly back and forth, how we are going to subsidize them and how much. What we are looking at right now an airline ticket from El Paso or Albuquerque non-stop to Dallas/Ft. Worth costs from \$250 to \$300. We figure it is going to cost about a \$40 to \$60 premium to fly into Ruidoso. Those grants help pay for those subsidies. We are looking at a regional jet that hold 44 passengers plus freight. In reality we only have to have 24 to 28 percent occupied to make this pay for itself. The development of this airline is meeting the inventory with demand as far as trying to get the people on the plane. In meeting the inventory with demand in these other areas, it has been noted that over 50 percent of the people that use this airline are second homeowners. Then there is a large percentage behind that which are their guests and friends. After that you get the tourists and the business travelers. We are looking at a seasonal service. Our plans right now are to start up Memorial Day weekend of 2006 and go through Labor Day weekend. Then we are looking at the winter months of Thanksgiving through spring break. That is about 100 days during the summer and about 100 days in the winter and that way we don't have to pay those subsidies on the days they don't fly in here in the off season. Over the next few years we feel this will be successful enough to extend that from Houston Intercontinental possibly from Continental Airlines as another hub. We feel that each government entity in Lincoln County should contribute to this such as the businesses are and the individuals in Lincoln County are. At this time, we are not asking for any money but we would like you to think about that.

Mayor Miller stated next item on the agenda, selection of Voting Delegate for 2005 Annual Conference Voting Delegate, Roswell, New Mexico. Councilor Olivo nominated Councilor Garrett. 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 awarding RFP No. 05-03 Professional Services, Southwest Quarter Sewer Extension for Miriam Drive and Wood Lane. Councilor Olivo said the only reason I pulled this out, we had a meeting with ASCG engineers, Dan Gens, Terry Procter and myself on August 28th. I was concerned about the water tank test they were supposed to be doing and their engineer, Charlie, was very sarcastic. He treated Dan like he wasn't even here. To me we shouldn't have that kind of engineer. I questioned him also about the streets and he said it was not for

discussion and I said yes it is. We discussed it after that but the way they talked to Dan. He said he didn't have to go by the contract, that he had 25 years experience and he was just going to do two tests while the contract called for nine tests on the soil for the tank. To me, I don't want him to do any work for the City.

Administrator Waters said after this was reported to me, I talked to Dan Morehead who is the supervisor over the entire Albuquerque office of ASCG and expressed our concerns again in addition to the concerns that Mr. Gens is there at my request and that is part of his job to oversee the projects because of the problems we have had with the compaction issues on the streets. In addition, we have some other compaction issues that have come up on other projects that were done by other engineers. One of the issues that I discussed was what our requirements are and he totally agreed when he found out about the compaction issues. He apologized for the discussion in the meeting you attended. He certainly agrees the compaction is very, very important. They are going to drill and they are, at their expense, to check the first two lifts that only had two samples each. They are actually going to do it in a more opportune way to us because they are going to do the excavations at the ring wall all the way around. The extra excavations we have asked them to do are actually going to be more beneficial. If we find areas that are uncompacted they are going to have to take them out and recompact them. The engineers have agreed to do that. I think one of the issues that perhaps Charlie didn't understand and in many engineer's cases as were the other engineers who also did work, they generally look at these things as a take for granted issue giving the contractor the benefit of the doubt. I think in this case our concerns and our experience in the past watching compaction is very near and dear to our hearts and they are going to pay very close attention to it. Charlie contacted me this morning and said they had scheduled those very soon. From Charlie and from Mr. Morehead there won't be any further problems such as the one you guys experienced.

Councilor Garrett said I was so angry this week that I actually called Dan Morehead at ASCG and I spoke to him pretty close to an hour and I let him know of my displeasure of the councilor and there is no way that this Council, as far as I am concerned, would tolerate that kind of activity. Dan Gens was employed by me and I expected him to be on site and expected him to check on those things. I do not expect them not to listen to him or in any way not accept his recommendations for that piece of property. He was supposed to send a letter. Did he? Administrator Waters said I passed out an e-mail transcript that it is on its way but they wanted to let us know ahead of time that we will have a formal letter explaining the situation. We have not received that yet but it is supposed to be forthcoming.

Councilor Olivo said the way that meeting turned out is why I am disgusted. He was talking between him and Kelley as if we were not there. They were not concerned with the City of Ruidoso Downs. It was just between him and the contractor. That is not the way it is supposed to be done. I congratulate Dan because if I had been him I would have walked out.

Councilor Garrett said I told Mr. Morehead that is what is going on and my problem with them is they did not follow the contract, they did not do more than two tests and I wanted to know how they planned to rectify it. That is where I left my conversation with him the other day. He said to me that it was an error on their part, they had rectified that and they were also going to have the information faxed from the people who are doing the actual samples because there was a delay in getting that information. I applaud Mr. Gens because I'm not sure I would have been that gracious as he was at that meeting.

Public Works Director Gens said I would like to add one thing. I spoke to the engineer before any testing was conducted and informed him of the state of the project, asked him to have an onsite presence and informed him we are very concerned about the compaction, let him know every stage of what is going on. I actually found out the testing was not being done and they continued to do the work they added more testing at that point but they still continued on covering the material that was not tested so now rather than going back through one layer we are going back through the whole fill to do this retesting. When I contacted this engineer many times and actually got the meeting with Mr. Olivo, Mr. Procter and myself. Things could have been tested much earlier than they are going to be now. So any delay on this project certainly shouldn't be counted against the City but against the engineer and contractor themselves because they were informed in plenty of time to rectify the situation before it was carried this far.

Attorney Bryant said when you are a public entity I don't care what you say on the phone or in person, if you don't document your conversation, it didn't happen with an employee or contractor or an engineer. I would simply recommend that a letter is written from the City of Ruidoso Downs to the engineer confirming the conversations, delineating the concerns and expressing the agreement that we think we have reached to resolve all of that. Mr. Waters can sign that; it doesn't have to come back to another Council meeting but you should just confirm these are the assurances we think we have been given and thank you very much for resolving the situation. There is nothing that will get you good service than a wake up call.

Mayor Miller entertained a motion to approve. Councilor Garrett asked is there a timeframe on this. Administrator Waters said we are with the racetrack under an EPA Administrative Order to award \$45,000 to the City to do Miriam Drive. We are in danger currently of losing that. They had a deadline of late July; we are operating in the gray with the EPA to allow this. We would have to go back if we did have to go for another two weeks and basically ask the EPA for more time.

Attorney Bryant said if you were so inclined make a motion to approve the professional services agreement contingent upon our concerns being documented with them and their response being received within three business days. The paperwork is exchanged and the project goes forward. By making it contingent upon those two letters then you have solved the documentation issue.

Councilor Miller moved to award the contract to the highest rated proposer, ASCG, Inc. with the contingency that our concerns are documented within three business days. Seconded by Councilor Garrett. 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 rejecting and rebid No. 05-007, Drainage Project Construction Phase I. Administrator Waters said we had one bid that came in on this project and it was significantly higher than the budgeted amount. There were some items in there after the bid was ledden but it was too high for us to negotiate. You have 10 percent you are allowed to negotiate with the company if the bid is O.K. The company that bid on this was Guardiola Construction. They came in almost \$200,000 above the budgeted amount. When I spoke with Mr. Guardiola as well as the engineers, they both identified an issue they could probably change material-wise that would allow for the construction to occur. That would be the material of the drainpipe that is going to go from North Parnell down to the Parker ditch. Before when this was bid out it had concrete pipe which is very heavy and difficult to deal with. In big cities and even in Roswell and Alamogordo it is something that is done by a lot of different entities, however, in the mountains it is not something that is frequently available and takes special equipment and training. Therefore, they looked at another alternative called flow pipe. It is a steel pipe that is not corrugated and it is actually going to save well over \$100,000 upwards to \$150,000. Guardiola and the engineer both told me that so I asked them to change the specifications on the material to be downgraded to the steel flow pipe which seems to be a standard as the State Highway Department is using it in Albuquerque now. The other issue is there is some dirt work that needs to be done along the Parker Ditch. With those two changes we believe we will come in under budget. There are so many projects going on in the State of New Mexico particularly up north. Albuquerque has millions of dollars of water and sewer projects and street improvement projects going on right now and they have tied up almost every one of the major firms that usually bid on this. In addition, you have large bond projects going on in Carlsbad and Artesia. Several of them appear to have holes in their schedule starting in September which would coincide with what we are looking at here. We are hopeful we are going to receive more construction bids next time by changing the material and the timetable easing up. We are asking to rebid this project under different construction materials and with some modifications to the scope. The State has been notified of the construction schedule and it is my wish to then go forward to the State and ask them for an extension once we have a project started in construction. It certainly isn't an optimal situation; we have tried to push this along. In retrospect the next time we have a situation with the right-of-way, I am going to accelerate it and bring it to the Council because DFA doesn't like to be put in the position of granting another extension on a project that should have been done last year.

Councilor Olivo said the main reason I pulled that out is so you could explain to our citizens what is going on. Also, going back to our meeting we had, Dan was brought up

again on this project, as he was the reason that we were going to lose our \$500,000 because he had changed the specs on the project. I told them Dan wasn't even here. Administrator Waters said that is not true. The reason why we are delayed on this project to this point is we had somebody who told us we had a right-of-way. They changed their mind and we had some significant negotiation, as the Council well knows, between Mr. Bryant, this individual and myself. We have since come to an agreement and now we just got another thing thrown in our way in that you are a small municipality and your projects are small potatoes compared to the big cities with \$15 to \$100 million projects. We have to get in there and try again and the State understands this that small towns always have this problem. I believe we can get an extension. We will not be seeking a CDBG grant for this next year. The State CDBG Committee has made it very clear that they will give one every other year.

Councilor Olivo said I just wanted to clear Dan's name because I believe he has done a wonderful job for the City of Ruidoso Downs and I back him up 100 percent.

Councilor Olivo moved to reject and rebid Bid No. 05-007, Drainage Project Construction Phase I. Seconded by Councilor Morales. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated the next item on the agenda, consider appeal from Sharla Ryen, Resolution No. 2005-07. Attorney Bryant said on July 11, 2005 this Council approved a resolution condemning the structure at 403 Nevada in Ruidoso Downs pursuant to a State Statutory scheme that allows you to locate and assess ruined, damaged, hazardous and/or dilapidated buildings. Pursuant to that statutory provision, once you have passed that resolution the landowner has fifteen days to make a written rejection to the City to the proposed destruction in the resolution. On July 21st we received a written objection and it is in your packets. The statute requires the City Council to conduct a hearing and it is not a public hearing in the sense you hold a public hearing for an ordinance like we just did. This is an administrative hearing and it is an opportunity for the landowner to come forward to demonstrate to the City why they should not follow through with their resolution. We need to call that hearing to order. Ms. Ryen if you are in the audience or if you have a representative here to speak for you we need to hear from you now. The next step would be is there anybody in the audience that wants to speak in opposition to the resolution condemning that building in ordering its destruction. In an administrative hearing, Mr. Mayor, the ordinary process is the landowner would come, explain why we shouldn't do that. We would give our staff and members of the public the opportunity to come in and support the resolution or explain why they disagree because the landowner has not shown up and because no one else has spoken, but I think the City is free to declare a default in the administrative hearing for failure to appear and proceed with the resolution. Administrator Waters said, for the record, you do have a letter from Ms. Ryen that is to be entered into the record, however, that is all that we have at this point. I would concur with Mr. Bryant's assessment of this with the addition that this letter is in the record. Councilor Miller

said in all fairness to Mrs. Ryen did she even know that she was supposed to appear tonight. Did anyone send her a letter? Code Enforcement Officer Dunlap said she wasn't sent a formal letter. I saw her Friday afternoon and I spoke with her personally. I told her of the hearing this evening. She told me that she had spoken with Steve Eisler who is her neighbor and he told her before I did so she knew about the hearing. Councilor Miller said what I am asking did you she know she had to come to this hearing to defend her property. Mr. Dunlap said yes m'am, she did. I told her she needed to be here. Councilor Miller said but she didn't have a letter from the City and Mr. Dunlap answered no.

Attorney Bryant said I will do some research over the next day or two to determine whether verbal notice is sufficient or not. Councilor Garrett said I know there are a lot of residents in this room right now who came in support of the action that we already took. I would at least like the opportunity, if the Mayor will allow it, for those people to at least raise their hands and put in the record how many people here are in support of this action that we already took.

Attorney Bryant said just let me ask you if you came tonight to support the resolution could you let us know that by standing up for a moment.

Councilor Garrett moved to uphold the decision that was made with the Sharla Ryen Resolution No. 2005-07. Seconded by Councilor Olivo. Councilor Miller said I would like to find out first if she knew from the City that she was supposed to come and defend her property. Attorney Bryant said what I would recommend, Councilor Miller, is take action on this motion. If this motion passes, I will do the research. If I find out that we haven't dotted our "i's" and crossed our "t's", we will schedule this hearing on your next meeting and we will make sure written notice goes and we will do it again if necessary. Councilor Garrett said Mayor Miller, one thing I would like to say, I made the motion on the fact that this letter was submitted and I consider this letter her formal letter that she submitted. I feel we have made a recommendation according to how we feel from this letter. Mayor Miller asked is there an amendment to your motion. Councilor Garrett said no, sir. Mayor Miller asked that roll call votes be taken. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Nay; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Olivo and seconded by Councilor Garrett to approve Records for Destructions - Phase I, 2005-2006. 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 Action for Temporary Parks Laborer Position, Greg Myers. Public Works Director Gens said I would like to recommend Greg Myers for the position of Temporary Parks Laborer. I did not interview him myself; Mr. Dunigan did that and recommended him to me. Hopefully we can keep him around for a while.

Councilor Morales moved to approve Greg Myers for the Temporary Parks Laborer position. Seconded by Councilor Garrett. 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, Planning and Zoning, Paul van Gulick. Mr. van Gulick said we have four items for planning and zoning today. The first three are all related, the same developer, the same project and if it is the Council's wish to consider them all at once and vote on them all at once it would save time. The Council agreed to vote on all three at once. Mr. van Gulick said just as an overview, I see Mr. Murphy and Mr. Collins are both here to represent their project. It is the development of Phase I of Avalon Falls. What is before the Council tonight is approval of the preliminary plat presented to the Planning & Zoning Commission, approval of a zoning change from C-2 which is the designation for that portion being developed to a PUD which gives them more flexibility but it is a more restrictive zoning in a way than a C-2. From the City's point of view I don't think that is an issue. Item 3. is the road right-of-way that is located within Avalon Falls and it has been before the Commission a couple of times. There had been issues about the size of the road and access to the adjoiner. In the opinion of the Commission, those have been resolved satisfactorily. It is a matter between the developer and the adjoiner, MW Limited, and my understanding is that has all been worked out. As far as the City goes, I don't think there are issues there; the developers understands that the road will have to be constructed to City standards according to subdivision ordinances that are in place. There are ongoing considerations with the bridge to make sure that it is up to spec. It will be designed to carry utilities. The Commission didn't see any difficulties with this. We had a public hearing and there were no protests on any of these items. I will let Mr. Murphy present any information he wants to but this project, in general, looks to me to be excellent. I think it benefits the City. They have been responsive to concerns that have come up, in particular, building within the flood plain. Mr. Murphy has gone out and had aerial photography and surveying done to determine the limits of the flood plain and the flood way as it is today so they could make accurate designs based on that. They have been thinking about how to do things, for example, make the sewer flow naturally to the pipes without lift stations in a scheme that involves putting in a walking bridge across the river. A lot of good thought has gone into this so we have no problem recommending this to the Council. I will open it up to any questions and invite Mr. Murphy and Mr. Collins to make any comments they would like.

Councilor Miller said I was just wondering why the lots are so narrow. Mr. van Gulick said they are townhome lots. Councilor Miller asked they are two and three story homes and Mr. van Gulick said yes, I think there will be a mix. The effect of what is going on there I think will be very nice according to the plans we have seen with the cluster of homes and leave as much land open as possible. Last time I was down there I do remember those falls after I walked down there. It was completely overgrown and almost impassible. I feel sorry for Mr. Collins who had to survey it one time before it was cleared. It is cleared now and I would recommend anybody who wants to take a walk either from the track or from the empty lot across from Wal-Mart. I think it is an

excellent area for the kind of development being considered. As far as the width of the homes, I think the idea of clustering it, leaving the areas open. There are a lot of ideas he is considering now including opening that area up for use by others, not just the residents to have some kind of sensible corridor between that and the track so that people could get back and forth by a shuttle or any number of things but I think this is a very livable community. If you were to ask ten people right now in the general area if they were aware that the river actually goes through Ruidoso Downs you would think I guess it has to but nobody has ever thought about it. I think, in the long term planning of the City, the more we can open up assets the City has and this will create more access to the river. We border the national forest and it increases access to that. There are a lot of just natural features I think are underutilized right now. This type of project is really in line with some of the directions I think the City needs to take.

Councilor Morales moved to approve the preliminary plat of Avalon Falls townhomes, approve the zoning change from C-2 to PUD for Tract 6, and approve the dedication of the road right-of-way within the road right-of-way located within the Avalon Falls as shown by the filed plat thereof. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller congratulated Don Murphy. Mr. Murphy thanked him.

Mr. van Gulick said Item 4 is Conditional Use requested by Arthur Gillis, owner for a tract of land in the NW/4SW/4 of Section 29, Township 11, South Range 14 East for placement of a single wide home in an R-1 zone. The way our zoning ordinances are written right now, because of square foot limitations, were set essentially for doublewides within a R-1 zone. This goes to an issue we are looking at very heavily right now. The tradeoff between affordable housing and protecting property values in R-1 zones versus with what to do with substandard lots. It is a big issue. In the meantime this particular request is on a four to five-acre tract so in this particular case the placement of this home is limited in terms of the impact on the neighbors. There were two people who attended the meeting who had concerns about it and expressed those concerns. Some of the concerns were what the P&Z Commission needs to do to hash out this difficulty but in terms of the particular placement of this home on this lot, there were no actual protests. It appears from the comments we received that Mr. Gillis is diligent in the way he takes care of his land and the improvements that he is making. We recommend the approval for the Conditional Use to place a singlewide on his property as requested.

Councilor Miller said I did not go up and look at this but you did. Mr. van Gulick said it would not be visible from the road. The placement of the home is far enough back so it doesn't appear to have a significant impact. I know this is an area that is problematic in terms of drainage and he will have to file a site plan to address that. The home itself will have to have a permanent foundation and he is aware of that along with siding made of durable goods. I think the finished product will be O.K. and he has other

things to do to make sure it doesn't have a negative impact. Councilor Miller said I am just wondering if this will open up others wanting to put singlewide homes on R-1. Mr. van Gulick said in fact it doesn't. The way the ordinances are written, each case would have to come before the Commission for a conditional use and each one would have to be considered separately. To approve this doesn't open the door for others. It would only open the doors for others on a five-acre lot with minimal impact to the neighbors. We have had a few come before and we have granted some and not others. Councilor Miller said I know they are more affordable than doublewides. Maybe he could eventually make it look like a doublewide with a porch or garage. Mr. van Gulick said the bottom line is within the city limits we are requiring permanent foundations. We don't have any control over how those are done as the State regulates that. However, through architectural standards, we do require the perimeter wall to be made of cinderblock or durable goods just like a site built home. We don't get singlewides with vinyl skirting or no skirting. About the other issue of singlewides in a R-1 zone, it is a difficult issue that we need to address once and for all in a way that protects R-1 zoning and protects property values all at the same time. As a practical matter, this all gets driven by economics. Bonnie Richardson pointed out we are seeing fewer singlewides go in anyway because of the interest rates people can afford doublewides. The other side of the coin is to put in a doublewide on smaller lots becomes problematic.

Councilor Garrett said as a resident his property abuts my property. We are concerned about drainage more than anything else. I have caliche in my yard this morning and this is not from him. I have visited with him several times about the drainage so he is more than aware of that. I would have a problem, personally, if he was placing it on a 100-foot lot but this is a five-acre parcel. He has plenty of room, it won't be close to the neighbors, it is not going to be something that will be within a five-foot encroachment on the lot next door. He has plenty of room and personally we didn't really see a problem. I don't think the neighbors in the area have a problem but we do want to ensure that the rest of the neighborhood does not accept singlewides on smaller lots where they are going to be really close together. We also wanted him to realize that he could not put livestock on that piece of property. Mr. van Gulick said that is on the record that he is aware of that.

Councilor Garrett moved to approve P&Z recommendation to approve the conditional use requested by Arthur Gillis, owner of a tract of land in the NW/4 SW/4 of Section 29, Township 11 South Range 14 East, NMPM, Lincoln County, New Mexico for placement of a singlewide home in an R-1 zone. Seconded by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

PUBLIC INPUT

Mya asked Mayor, the ceremony on August 30th with the governor here has been cancelled. Administrator Waters said we received notice late Friday that they have moved the governor's portion of that meeting to Hondo or San Patricio or Tinnie to the 9th of September. We have Manon from the Department of Transportation and she left

the message and I am sure she could address that with the Council. Manon Arnett did address the Council and those in attendance but was not audible on tape.

Mya said my heart is really into this ceremony with the governor being held here in our City. I think a lot of residents here are so happy to have that stoplight going up and we would like to show the D.O.T. and the governor and have our mayor up there to say a few words about our appreciation in getting that stoplight. When I heard it was perhaps switched I was going to ask this evening if we knew why and who from our City is representing us to fight to get the governor's ceremony here in the Downs. I'm sure you will take care of that. My other concern, I do not know who the City has contracted with about your internet website but it is an embarrassment. I wish that we could find someone within our own City to contract to do that for us. I tried to leave a note with Public Works to thank Dan for his people fixing a work order so promptly and I couldn't get in. You see this flashing thing with no pictures on the front page. It would be nice if it was a little wavy to talk about our new economic plan for the City. This constant flashing is really poor in terms of drawing people in. There are a few other things on there. I go to the bottom of a page to get the Agenda for tonight. The most present should be at the very top when you hit into agendas then all of things that need to be in the archives should go below. Just some observations that I am little frustrated because I don't think we have a professional working on our behalf with our best interest and we should seek somebody in our City who cares. Thank you.

Warren Beaver said I live on Parker Road and I thank the Council, the City Administrator, everybody needs to be congratulated on the work that has been done because we have made a giant step. Don't quit; you are doing good.

Manon Arnett said I am with the Department of Transportation and as you might already know, we have scheduled a cleanup day August 30th. It is going to continue as scheduled. It is just like we have planned in the past. On the 29th we are still going to have the registration here at your park from 10:00 a.m. to noon and on the 30th the cleanup. We will come back here to still have a press conference and we are still looking for local involvement. If you know of any business owners or yourselves would like to participate, please let me know. My number is 505-627-7210. The governor did change his schedule; it does not permit him to come on the 30th so they rescheduled the ribbon cutting. Tentatively that will be September 9th. I am working to get it here in the Ruidoso Downs area; I think it would be a nice, central place for it and for the governor. They have not gotten back to me as of yet. Again, I would like to thank you for letting us have the cleanup event at the park for the cleanup from Hondo to Mescalero. Are there any questions?

Councilor Miller said it is a bad time on Tuesday. Everybody is working and the kids are back in school. Ms. Arnett said we are hoping some of the businesses will let some of their employees have the morning to come help. Councilor Miller said we will discuss this; we have a Beautification Committee Meeting this Wednesday at 4:00 p.m.

Ms. Arnett said she would love to come. Public Works Director Gens said Leonard has actually gone out and visited with a lot of the businesses to try to solicit their support. Ms. Arnett said I do regret that it is on a Tuesday but let's make a community effort into what we can. Administrator Waters said I do plan on having the City employees go out that morning and we are going to be responsible for Ruidoso Downs from end to end. With the Mayor's permission, we may even close City Hall and invite employees to clean up the highway. We all know it needs it. Manon pointed out that it is one of the most polluted highways in the State of New Mexico. Any help would be appreciated and if you are a business owner, we would certainly encourage you to sign up. Mr. Gens said one of the ways to promote businesses to come in on this is they will be recognized, right? Ms. Arnett said yes, at the press conference. I will keep you posted on the ribbon cutting.

Mayor Miller entertained a motion to adjourn.

Motion was made by Councilor Morales and seconded by Councilor Miller to adjourn at 7:20 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer