

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
OCTOBER 24, 2005

The Council of the City of Ruidoso Downs met in regular session on October 24, 2005. Mayor Miller called the meeting to order at 5:30 p.m. and asked Jim Burrow 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  
Dan Gens, Public Works Director  
Robert Denny, Department of Public Safety Chief  
Jay Smith, Museum Director

APPROVAL OF AGENDA

Mayor Miller entertained a motion to approve the Agenda. Councilor Garrett moved to approve the Agenda. Seconded by Councilor Olivo. 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 Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF OCTOBER 11, 2005 REGULAR MEETING

Motion was made by Councilor Morales and seconded by Councilor Miller to approve the Minutes of the October 11, 2005 regular meeting. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF OCTOBER 13, 2005 SPECIAL MEETING

Motion was made by Councilor Morales and seconded by Councilor Miller to approve the Minutes of the October 13, 2005 special 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 Miller to approve the Accounts Payable. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

MONTHLY REPORTS

Motion was made by Councilor Morales and seconded by Councilor Miller to approve the following reports:

- |              |                          |
|--------------|--------------------------|
| Fire Report  | Animal Control Report    |
| Court Report | Code Enforcement Report  |
| DPS Report   | Permits/Licensing Report |
|              | Public Works Report      |

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

UNFINISHED BUSINESS

There was no unfinished business.

OTHER BUSINESS

There was no other business.

NEW BUSINESS

Mayor Miller stated next item on the agenda, update report on gross receipts tax. Administrator Waters said I have provided you with some information on our monthly gross receipts tax. I wish I had a rosier picture to share with you. Last year's gross receipts in October was our second largest check of the year of \$242,000. The year before we received \$295,000 and the year before that we received \$232,000. This year we received \$112,949.57 for our portion of the gross receipts. Obviously that is a good \$130,000 short of what we expected for this month. We were already running in the neighborhood of six percent short up to this point in our gross receipts tax. This is a very serious gross receipts tax check deficit. We have been in daily contact with the State Taxation and Revenue Department, the Governor's office as well as the Municipal League. Apparently there were three entities hit particularly hard of which it appears we were the hardest hit. Red River, Santa Fe and Ruidoso Downs have received very low gross receipts tax up to this period. We were told that a large retail establishment did not pay their bill properly or on time. We are expecting some of it to come back. The Mayor, as you are all aware, wrote a letter to the State when we were only six percent down instead of the 22 percent we are looking at now. We asked them to review our large retail establishment to make sure they were reporting the gross receipts on groceries properly to the State. It is of my opinion that is not happening. If you look at the graph from 1998 to present, you will see there is a very clear pattern. You notice that the two lowest checks we have listed have occurred when the gross receipts tax on groceries were taken off. Obviously there is some problem there. That is when the pattern is broken up; I

don't believe in coincidences. Our lodgers' tax is up this year which means the people are visiting us. Our next door neighbor is showing very healthy gross receipts tax in recent returns. Because we depend, particularly during the winter months, about sixty percent of our revenues come from this large retail establishment. Obviously when they do not report correctly, it affects us to a great degree because we are so dependent upon that establishment for gross receipts tax it affects us harder than anyone in the State. The Taxation and Revenue Department did confirm that. They are looking into it and they will have a report completed for the study on the taxation situation due on November 3rd. At that time if it is necessary to do further work auditing they will then proceed during the month of November. Hopefully we can get an amended return and monies back in our revenue coffers before the end of the year. Generally the State asks for thirty, sixty or ninety day amended returns. If the amended return comes in for December then we get that check in February. Obviously we are asking for them to expedite that process if they find some errors. In the meantime, we have a mid-year adjustment to look at and reserves to keep up with and that is why we have some quarterly adjustments that are trimming our general fund across the board from all departments. Capital positions are frozen. The problem we have right now, even though we are expecting money back from the State, we want to make sure it doesn't eat into our operating fund so we don't have to lay people off. These next months should get us through the end of the calendar year. If the State gives ninety days for the amended returns to be in then we could be looking at getting this money at the end of our fiscal year which would be a bad situation. Bill Fulginiti has pointed this out on behalf of Santa Fe and Red River to the State. The governor's office is acutely aware of it because I have been calling on a regular basis. We are going to continue to call until they correct this problem. This is one of those issues that may not affect a big city that has twenty or thirty retail establishments but for a small town like we are that depends heavily on our big retailer we want to make sure they report right on a regular basis because missing two months in a row will really hurt a town of our size. In three months we will be into our reserve and that is something we don't want to do. We have pointed that out to the State. We are receiving some indication that they are going to take care of it. The budget adjustments are here; it is better to be safe than sorry. As we get that back I intend on putting it back into the budget but there is a chance that we may not get it back until spring.

Councilor Garrett asked have we ever totally recouped the first check. Administrator Waters said Councilor Garrett, you will see on here that we did not. Part of the problem the Mayor reported, the management of our large retail establishment has been in state of flux since last spring. It is our belief that perhaps that state of flux caused the reporting to be askew. Taxation and Revenue is going back to 2003 to see if there is a problem in the reporting. In addition to that we want to make sure that all of our retailers are reporting for Ruidoso Downs and not Ruidoso. We are going to continue to call until we get this situation corrected. The State is the only one allowed to know what your retail businesses are making. It is against State statute for cities to ask the State for revenue figures. That is a duty

reserved specifically for the Taxation and Revenue Department. Were we a Home Rule community we might be able to establish something that would allow us to check on our local gross receipts. We have to depend on getting our state government in gear in order to bring a satisfactory result to this.

Mayor Miller stated next item on the agenda, consider approving Resolution No. 2005-20, Quarterly Budget Adjustments. Administrator Waters said we have quarterly adjustments proposed primarily in the general fund because that is the only fund that we are really worried about. The water is healthy, the sewer is as healthy as it is going to get with what we are paying but the real trouble was the gross receipts problem. Our lodgers' tax is actually doing well. In fact we have an excess of lodgers' tax money from the non-promotional side that has not been spent. It has to be spent every two years. I have also included in these adjustments taking \$30,000 from lodgers' tax to bring in air service to the Ruidoso Downs area for the summertime. It would be nice if we could use some of that lodgers' tax money and put it in the general fund. Unfortunately, we are not allowed to do that. We do have a significant portion that is left over for the All American Park. I have spoken with Dan Gens about paving the All American Park and perhaps the front part of the museum parking lot to cheap seal it at least. The All American Park gets muddy in some areas and doesn't drain right. If we have enough time by mother nature, I have asked Dan to grade the All American Park and use that money that is budgeted right now to pave it. We received an offer from Mr. Hubbard and the racetrack to donate \$30,000 to the City of Ruidoso Downs and our match for a total of \$60,000 donation towards the effort to bring air service in to Ruidoso Downs, Ruidoso and the general area during the summer season to start off. It is a one time donation. To that effect, I do have Mike French here who is representing Fly Ruidoso.

Michael French said I am here on behalf of Fly Ruidoso to describe what we are as an organization. I do have some pass outs. The first hand out is a frequently asked questions sheet. It describes what Fly Ruidoso is, why we want to do this, how it is going to work, and where the money is coming from. The second hand out you have are some different financial models that we ran based on different scenarios of load factors for the airlines.

For a year or so a group of local businesses formed a group to pursue some national level commercial scheduled airline service coming into Ruidoso. Our goal is to bring in a national carrier hubbing out of Dallas/Ft. Worth airport. We think that is important and it opens up our community to everything that is east of here. We think hubbing from DFW is important because there are great connections throughout. Our goal is to bring in an airline that will fly regional jets. Regional jets have anywhere from 45 to 50 seats depending on the aircraft. We would run it through the summer, one flight in and one flight out everyday starting the day before Memorial Day and ending the day after Labor Day weekend. We picked the summer as a test period; that is our peak time already. We would like to be able to

show that this can work. We need to market it and make sure people know about it. Then, of course, the goal is move to a winter schedule and then a schedule that would go year around. That is the long dream. Also, talking about the long vision in addition to scheduling service everyday we would like to bring in larger aircrafts, 737's, for more than one destination. This is just the beginning; this is not the end. This is just planting that seed we hope is going to grow over time. Now, what makes us think we can do this now. There has been scheduled air service coming into Ruidoso airport before and it didn't work. This is a different kind of model. The air services before were local or regional air carriers, 9 or 10 passenger turbo props out of Albuquerque. A lot of times the flights were cancelled or the aircraft didn't work and a lot of travelers didn't want to go through the hassle of going to Albuquerque and changing flights there. Coming out of DFW we think is a huge benefit for us that are connecting and of course the DFW market has millions of people that see our area as a great spot to do business and a great spot to vacation. This isn't all about tourism. There are three primary passenger types. Second homeowners will, of course, use the airline a lot. We know that based on experience in other resort communities. Friends of second homeowners will use it as well. Naturally we will get visitors to the area, tourists that would not normally come here, folks that don't want to go to El Paso and drive here for 2-1/2 hours to get here. We intend to market to a lot of corporate groups, meetings, conventions and things of that nature that won't currently come to our area because of the long drive out of El Paso or Albuquerque. The same thing for business development, we would like to see businesses developed in the area. Folks that are considering moving here won't come because of the difficulty getting here and we see those market segments could be served by that. Naturally for anybody that is local in a sixty-mile radius this is a whole lot better than driving to El Paso in order to fly out of town. Significantly different than old models that have been tried before Mesa, Rio Grande or Lone Star; it is a national level airline. We are talking American, Continental or something on that level. Once we enter into the reservation system for any of those airlines we are literally connected to the world. Our name will show up in all of the computer reservation services. You will be able to book a flight straight through from here to Chicago or anywhere back east from your internet. This is not a subsidy program. Although, we are responsible for covering any short fall in revenue the airline incurs as a result of operating here. The subsidy is you just right them a check every month no matter how many tickets they sell. This program works where there is a minimum threshold the airline must sell. If they fall below that then they look to us to make up that shortfall. It is called a minimum revenue guarantee. The key to making all of this work is the marketing of it. We do have a healthy marketing plan and is all about letting people know.

Mr. French discussed the three different financial scenarios of the second handout. Mr. French said we have already received a grant from the U.S. Department of Transportation for a total of \$600,000, which can be spent over three years time. The New Mexico Department of Transportation also has a grant system for small regional airports, which we applied for and received. It is a matching dollar for

dollar fund and can only be used to cover the shortfall from airline operations. The local share is the Village of Ruidoso has already pledged \$60,000 in lodgers' tax funds plus they recently raised their lodgers' tax rate and a portion of that increase is committed to this program for five years. We estimate that to be about \$40,000. We would love to have the City of Ruidoso Downs participate. I understand you don't have to do a five year commitment, whatever you think is appropriate. Certainly one year to get us going would make a lot of sense. Plus, Fly Ruidoso will continue to be out there raising funds from local businesses. What makes this so good is it is not a government program. We want to get as many people as possible putting some money into this, which we hope we don't have to spend by the way. This is not a guaranteed expenditure. If it works over time then there is no expense. We already have over half a dozen different businesses that have put up from \$5,000 to \$25,000 as seed money to get this going. The key group that has been pushing Fly Ruidoso primary purpose will be to raise funds and to develop marketing communication systems in our area to promote this service. The good news is we just need a commitment letter now. The service doesn't start until summer. So, all we are looking for is to demonstrate to the State that we have pledge money available if we have a shortfall. Mayor Miller thanked him for coming.

Administrator Waters said we are just offering a commitment by budgeting the money for that particular situation so we can sign a letter of commitment.

Mayor Miller entertained a motion to approve. Councilor Miller moved to approve Resolution No. 2005-20, Quarterly Budget Adjustments. Seconded by Councilor Olivo. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

#### PUBLIC INPUT

Councilor Miller said I would like to welcome Jay Smith. He just said this was his first day at the museum. It is good to have you. Jay Smith said it is good to be here. Thank you very much. It was a terrific first day. It is hard to believe it is coming to an end because it feels like I just got started with all the things we need to get done. But, I had a great time today meeting the staff; I spent some time with John and the City staff. Dan Gens and I spoke about a few matters. We are off to a good start. There is a lot of work ahead of us but it will be a labor of love. I am really looking forward to working more closely with you all. Councilor Garrett said if there is anything any of us can do just let us know.

#### EXECUTIVE SESSION

Mayor Miller entertained a motion to go into Executive Session, pursuant to Section 10-15-1 Subparagraph (H)7, threatening and/or pending litigation.

Motion was made by Councilor Morales to go into Executive Session, pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H) 7, threatening and or pending litigation. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo,

Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye.  
Motion carried.

Mayor Miller closed the regular meeting at 6:05 p.m. and invited City Attorney Bryant and City Administrator Waters 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 6:34 p.m.

Motion was made by Councilor Morales to go back into open session. Seconded by Councilor Olivo. 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 that pursuant to Section 10-15-1(H)7, threatening and or pending litigation and no action was taken.

Mayor Miller entertained a motion to adjourn.

Motion was made by Councilor Garrett and seconded by Councilor Miller to adjourn at 6:34 p.m. Motion passed unanimously.

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Bob A. Miller, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer