

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
NOVEMBER 28, 2005

The Council of the City of Ruidoso Downs met in regular session on November 28, 2005. Mayor Miller called the meeting to order at 5:30 p.m. and asked Paul van Gulick to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Miller	Councilor Morales
Councilor Olivo	Councilor Garrett

Administrator Waters informed Mayor Miller there was a quorum.

Also present:

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

APPROVAL OF AGENDA

Mayor Miller entertained a motion to approve the Agenda. Councilor Morales moved to approve the Agenda. Seconded by Councilor Garrett. 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. 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 NOVEMBER 14, 2005 REGULAR MEETING

Motion was made by Councilor Olivo and seconded by Councilor Miller to approve the Minutes of the November 14, 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 Olivo 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 Olivo 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      |
|              | Museum 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.

PUBLIC HEARING

Mayor Miller stated next item on the agenda is a public hearing for Ordinance No. 2005-07.

Administrator Waters said I will read the information under the Ordinance. This is an Ordinance authorizing the execution and delivery of a loan agreement by and between the Lincoln County Solid Waste Authority (the "Authority"), of which the City of Ruidoso Downs, New Mexico (the "City") is a participant, and the New Mexico Finance Authority evidencing a special limited obligation of the Authority and its participating members (the "Participants"), to pay a principal amount of \$2,701, 492 together with interest thereon and applicable administrative fees, for the purpose to construct a solid waste facility/transfer station for the Authority and participants and the funding of a loan agreement reserve account; providing for the payment of the principal of, administrative fees and interest on the loan agreement solely from the net revenues of the Authority Solid Waste System and from the distributions of municipal environmental services gross receipts tax revenues received by the City from the New Mexico Department of Taxation and Revenue pursuant to Section 7-19D-10, NMSA 1978, and City Ordinance No. 90-07 adopted on September 28, 1990; approving the form of the loan agreement and other details concerning the loan agreement; ratifying actions heretofore taken; repealing all action inconsistent with this Ordinance; and authorizing the taking of other actions in connection with the execution and delivery of the loan agreement.

- Section 1. Definitions.
- Section 2. Ratification.
- Section 3. Authorization of the Project and the Loan Agreement.
- Section 4. Findings.
- Section 5. Loan Agreement - Authorization and Detail.
- Section 6. Approval of Loan Agreement and Pledge of Municipal Environmental Services Gross Receipts Tax Revenues.

- Section 7. Special Limited Obligation.
- Section 8. Disposition of Proceeds: Completion of Acquisition of the Project.
- Section 9. Deposit of Pledged Revenues, Distributions of the Pledged Revenues and Flow of Funds.
- Section 10. Lien on Participant Pledged Revenues.
- Section 11. Withdrawal from Joint Powers Agreement.
- Section 12. Authorized Officers.
- Section 13. Amendment to Ordinance.
- Section 14. Ordinance Irrepealable.
- Section 15. Severability Clause.
- Section 16. Repealer Clause.
- Section 17. Effective Date.
- Section 18. General Summary of Publication.

Administrator Waters said these above items are listed in that particular ordinance that will be amended by this action if the Council chooses to do so.

Mayor Miller stated 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? There was no one to speak in support of the ordinance.

Mayor Miller closed the public hearing and entertained a motion to pass, approve and adopt Ordinance No. 2005-07 as read. Councilor Miller moved to pass, approve and adopt Ordinance No. 2005-07. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

#### OTHER BUSINESS

Administrator Waters said one of the things I would like to bring to your attention is the gross receipts tax chart. You will notice we did receive our check. The check is a rather large check excluding environmental gross receipts and it came out to \$375,000. However, when you look at that compared to the last month and the rest of the year it perhaps made us whole for last month but we still are about five percent short projected for the year. Obviously, the issues that we are dealing with our major retailer establishment perhaps are still there. We have asked the Municipal League and the Taxation and Revenue Department to continue to review how these grocery gross receipts tax exemptions are reported and make sure from

now on they are reported properly. We have not received anything back from them at this time but it looks better to be 5 percent down than 22-1/2 percent down. I am somewhat happy but certainly we are not where we need to be and we are even a full percent down of where we were last year. Our lodgers' tax is up. Ruidoso's gross receipts tax is up; there is really no reason why we should be down a full percentage point. We are going to continue to investigate, however, there is a significant difference between 22-1/2 percent down and 4 percent down for the year and we have released the positions that we had on hold.

Travis Atwell, firefighter, said what we have planned, as soon as weather permits, we have two live fire exercises we are going to be doing at the street shop. One is going to be a medium sized slash pile that we are going to be burning under controlled conditions. Once that goes out we will release a public service announcement over the radio. The next we have in our possession a singlewide trailer that we are actually going to do a structure exercise in. We will have a controlled fire inside and have the department respond. At the end of it we are going to burn the trailer down to the ground. Everything will be under controlled conditions. Winds will be less than 12 m.p.h.

Councilor Garrett said I want to thank the fire department and the police department for this weekend. I listened to my scanner and you all worked really, really hard.

#### NEW BUSINESS

Mayor Miller stated next item on the agenda, consider approving Resolution No. 2005-21 Regular Municipal Election.

Clerk Virden said tonight you will be adopting and approving Resolution No. 2005-21 calling for a regular municipal election to be held on March 7, 2006 for two councilors for a four-year term. Precincts 10, 11 and a portion of 8B will be consolidated for the regular municipal election. The following location will be designated as a polling place for the conduct of the regular municipal election and voters of precincts 10, 11 and a portion of 8B shall vote at City Hall Council Chambers, 122 Downs Drive, City Hall Hubbard Room. Absentee voting will begin on Applications for the Absentee Ballots and will be accepted by the municipal clerk prior to 5:00 p.m., March 3, 2006 and after 5:00 p.m., March 3, 2006 all of the unused absentee ballots will be publicly destroyed. The municipal clerk will accept completed absentee ballots delivered by mail or by the voter casting an absentee ballot or by voter's immediate family until 7:00 p.m. on March 7, 2006. Absentee ballots may be marked in person in the office of the municipal clerk during the regular hours and days of business beginning on Wednesday, February 8, 2006 and closing at 5:00 p.m. on Friday, March 3, 2006. Absentee voting by machine will be conducted in the office of the municipal clerk during the regular hours and days of business beginning on Wednesday, February 15, 2006 and closing at 5:00 p.m. on Friday, March 3, 2006. Persons desiring to register to vote at the regular municipal

election must register with the county clerk of Lincoln County not later than Tuesday, February 7, 2006 at 5:00 p.m. the date on which the county clerk will close the registration books. All declarations of candidacy will be filed with the municipal clerk on Tuesday, January 10, 2006 between the hours of 8:00 a.m. and 5:00 p.m. The casting of votes by qualified municipal electors shall be recorded on voting machines. I also have one in Spanish but I am not going to read it unless I am asked to.

Mayor Miller entertained a motion to approve. Councilor Olivo moved to approve Resolution No. 2005-21, Regular Municipal Election. Seconded by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Clerk Virden said I have prepared some candidate packets for any individuals that are interested in running for those two positions and they can be picked up in my office any time between now and January 10th.

Motion was made by Councilor Olivo and seconded by Councilor Miller to approve Declaration of Support for the Lincoln National Forest Partnership Agreement. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item under New Business, consider and approval to rescind Resolution 2005-07, Sharla Ryen property located at 403 Nevada.

Councilor Garrett moved to combine Items C. and D. under New Business and table them until the next meeting. 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 under New Business, consider and approval of personnel recommendation, DPS position, Police Officer, Manuel Maldonado.

Chief Denny said I would like your consideration to approve Manuel Maldonado. He comes to us from Silver City. He graduated from the Academy with Joseph and Wes and he would be our third candidate from that area. He is currently working for the Fort Bayard Medical Center and he was an intern with the volunteer fire department for quite a few years. He has also participated with the fire department here. We hope he has his fire one certification shortly as soon as he completes the Academy. In addition, everyone in the department will be certified.

Councilor Morales asked when will Mr. Maldonado be moving here; I assume you have to give Fort Bayard some kind of notice. Mr. Maldonado said yes, I will be turning in my resignation on Wednesday, November 30th and my last day will be the 15th of December.

Councilor Morales moved to approve the position of police officer, Manuel Maldonado. Seconded by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving Planning & Zoning recommendation to approve Bio-Grind, Inc. to operate a grinding and composting business on Lot 6 of the Santa Claus Ranch, subject to conditions, Mr. van Gulick.

Paul van Gulick, Chairman, said this matter came before the Planning and Zoning Commission the first of this month. There were a number of issues raised during the hearing. My belief is that all of those were pretty well addressed. You have before you the agenda briefing memo I prepared and each one of the conditions is intended to address each one of the concerns that came up. Basically, Mr. Wickware, an owner of an RV park adjacent to this, is the one most particularly affected by the operation of this business. He was concerned about noise, he was concerned about flooding, he was concerned about traffic and all of those were discussed. Bio-Grind, Inc. would be subject to these conditions being met prior to operation: 1. Submit a copy of the conveyance for the subject property from LCSWA to Bio-Grind, Inc. 2. Submit a copy of their Storm Water Pollution Prevention Plan and accompanying Notice of Intent. 3. Submit copies of all submittals to the New Mexico Environment Department. 4. Complete construction of the tire bale fence that borders the Cedar Mesa RV Park property. The fence is not to create a water impound issue. 5. Agree to limit operations to grinding and composting of Yard Waste Only. Taken all together these should address all of those conditions. At the end of the meeting there was an agreement on all sides about this. I think there is a lawsuit involved but we are not involved with it so those issues that came before the Commission are all addressed by these conditions as submitted. Our recommendation is to approve Bio-Grind, Inc. to operate a composting and grinding business on Lot 6 of the Santa Clause Ranch subject to the above conditions.

Councilor Garrett said wasn't there a discussion during that time there would also be another tire bale fence around the actual equipment. Mr. van Gulick said the site plan that they submitted does show a wall that would be between the grinding and the composting machine and the RV park and that is still on the site plan.

Councilor Morales moved to approve Planning and Zoning recommendation to approve Bio-Grind, Inc. to operate a grinding and composting business on Lot 6 of the Santa Claus Ranch, subject to the conditions of the agenda briefing memorandum from Planning and Zoning. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

PUBLIC INPUT

There was no public input.

Mayor Miller entertained a motion to adjourn.

Motion was made by Councilor Morales and seconded by Councilor Miller to adjourn at 5:53 p.m. Motion passed unanimously.

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Bob A. Miller, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer