

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
JANUARY 9, 2006

The Council of the City of Ruidoso Downs met in regular session on January 9, 2006. Mayor Pro-tem Judy Miller called the meeting to order at 5:30 p.m. and asked Pappy Bell to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Morales	Mayor Pro-tem Miller
Councilor Olivo	Councilor Garrett

Mayor Miller was absent.

Administrator Waters informed Mayor Pro-tem Miller there was a quorum.

Also present:

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

APPROVAL OF AGENDA

Mayor Pro-tem Miller stated next on the agenda is approval of the agenda but I would like to make a correction. The Minutes are of December 12, 2005 instead of December 27th. I would like to move Unfinished Business to after Public Input for Attorney Bryant to be present. Mayor Pro-tem 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 Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

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

APPROVAL OF MINUTES OF DECEMBER 12, 2005 REGULAR MEETING

Motion was made by Councilor Garrett and seconded by Councilor Olivo to approve the Minutes of the December 12, 2005 regular meeting. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

ACCOUNTS PAYABLE

Motion was made by Councilor Garrett and seconded by Councilor Olivo to approve the Accounts Payable. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

MONTHLY REPORTS

Motion was made by Councilor Garrett and seconded by Councilor Olivo to approve the following reports:

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

Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; May Pro-tem Miller, Aye. Motion carried.

OTHER BUSINESS

Councilor Garrett said I spoke to the Forest Service right before this meeting and I am concerned about fire restrictions and I want us to look into that. I know Ruidoso doesn't have any open fires right now. I don't think the forest service is ready to go into full fire restrictions but I think we need to look into fire restrictions.

Administrators Waters said he would ask Chief Denny to discuss this with Mr. Atwell and see what we can do. If the Mayor determines it is an emergency he can declare it until such a time the Council confirms it.

Chief Denny said Bill Dunlap was our selection for Employee of the Month. He volunteers for about everything you can volunteer for. He is in the Auxiliary, he is a lieutenant with the volunteer fire department and I have asked him to help out by taking over the police reserve program as a volunteer. He has always done a good job and keeps a good attitude. He was voted by the members of DPS as our Employee of the Month.

NEW BUSINESS

Mayor Pro-tem Miller stated next item on the agenda, consider recommendations of appointments to the Museum Board.

Museum Director Smith said as you may recall in December we confirmed a number of Board members. I will remind the Council as part of our contract with the Hubbard's we agreed to continue the Board member service provided prior board members from the museum wish to serve. We have confirmed that Jayne Clark, Joan Holt, Grace Snidow and Jean Stoddard are willing to serve on the Board and we present their names to serve on the Hubbard Museum of the American West

Advisory Board going into the future. Just as a reminder, this is an advisory board and I am very aware that I still need to approach the City Council and Mr. Waters.

Mayor Pro-tem Miller entertained a motion to approve. Councilor Morales moved to approve the appointments to the Museum Board as presented by Director Smith. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye, Mayor Pro-tem Miller, Aye. Motion carried.

Director Smith added we will have two more names to confirm for the next meeting and that brings the total number of Board members to sixteen.

Mayor Pro-tem Miller stated next item on the agenda, consider approving Precinct Board for the 2006 Municipal Election.

Clerk Virden said I have before you an agenda briefing memorandum with the following consideration of approval by you for the appointment of precinct board, alternates, translator and the absent voter board. It is my recommendation to appoint the qualified electors to the City of Ruidoso Downs Precinct Board, Translator and Absent Voter Board for the Regular Municipal Election to be held Tuesday, March 7, 2006: Presiding Judge, Barbara Green; Election Clerks, Faye Randolph, Ursula M. Eckersley and Peggy Burton; Translator, Faye Randolph; Alternate Election Clerks, Flo Harris and Rhonda Vincent; Absent Voter Board Presiding Judge, Barbara Green; Elections Clerks, Faye Randolph, Ursula M. Eckersley and Peggy Burton. I am also asking for approval of compensation of Precinct Board Members recommendation of \$150 per day as per Section 1-2-16 of the Election Code.

Councilor Olivo moved to approve the Precinct Board for 2006 Regular Municipal Election. Seconded by Councilor Morales. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

Clerk/Treasurer Virden said January 10th is candidate filing date. That is the only date that one can come in and file for a vacant seat on the Board from 8:00 a.m. to 5:00 p.m. On January 11, 2006, I will certify the candidates. On January 12th I will have a list of all certified declared candidates on the Board and at 5:01 p.m. all of the candidates will be in the office of the clerk so they can draw for their lot on the ballot. January 17th will be the withdrawal of candidacy date if any candidate decides to withdraw and not run for office. On January 24th is the date for write-in candidates and again that is from 8:00 a.m. to 5:00 p.m. January 25th is when I certify the write-in candidates. February 7th is the withdrawal of write-in candidacy. On February 7, 2006 by 5:00 p.m. the county clerk will close her books for anyone to register to vote in this election. Absentee voting in person on paper ballots will begin on February 8, 2006. February 15, 2006 absentee voting on voting machine begins. March 3, 2006 will be the last day to vote absentee on the machine

and the last day I will mail absentee ballots from my office to those that requested an absentee. After 5:00 p.m. on that date I will destroy all of the unused absentee ballots. March 3, 2006 is the deadline for candidates to file a petition for challengers and watchers. If we have any potential candidates here tonight, tomorrow if you ask me I will go into detail on that specific issue. On March 7, 2006, election day, polls are open from 7:00 a.m. to 7:00 p.m. We will have canvassing on March 8th at 9:00 a.m. and Magistrate Judge Martha Proctor will be here at 9:30 a.m. to do the official canvassing. On March 9th the candidates that won the office of councilor will take the oath of office by 7:00 p.m. On March 13, 2006, the City Council will hold their organizational meeting.

Mayor Pro-tem Miller stated next item on the agenda, consider awarding Bid No. 06-006, Pump System Fire/Rescue Brush Truck.

Administrator Waters said as you see we have a fire rescue truck, which has been deemed necessary by our fire department and public safety department. Although the total cost of this piece of equipment is \$10,931, we only have to pay \$1,100 as we have received a grant for the other portion. It is nice to be able to pay for this equipment mainly with other funds. This is something that Mr. Atwell and Chief Denny can be congratulated for bringing in that extra money.

Councilor Olivo moved to approve Bid No. 06-006, Pump System Fire/Rescue Brush Truck. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

Mayor Pro-tem Miller stated next item on the agenda, consider awarding Bid No. 06-008, one used 1988 or newer Street Sweeper.

Administrator Waters said as you can see we had one bidder, Elliott Equipment Company, with a bid of \$19,200. We have a really old broom and an older sweeper. Neither of these has the ability to pick up what it cleans off of the road and put it into a container. This piece of equipment does have this capability and certainly it will help keep our streets clean. We are asking for the Council to pass this. This was originally taken out of the budget and we are asking the Council to allow us to put this back in the budget under General Fund of the Street Department.

Councilor Morales moved to award Bid No. 06-008 of one used 1988 or newer street sweeper to the only bidder, Elliott Equipment Company. Seconded by Councilor Olivo.

Councilor Garrett asked Public Works Director Gens is this one sufficient and Mr. Gens said this is the one I want.

Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

Mayor Pro-tem Miller stated next item on the agenda, consider awarding re-bid No. 06-007, City of Ruidoso Downs Southwest Quarter Sewer Extension Miriam Drive. We do have one bid on this. We can either decide to table this or pass it on the contingent upon the engineer approves this company.

Administrator Waters said we did put this out for bid a second time. We did get a company out of Alamogordo that responded with a low bid. Currently our engineer says they have not had any experience with this company before. Knowing the City's very serious intent to check out each of the contractors before we put them onto a job, we wanted to do some extra checking into this company to make sure. They haven't heard anything good or bad about this company. We had hoped to hear something by noon today but they haven't received their notification back from the one City that had worked with this company before. At this time, it is certainly okay if the Council wishes to table it until the next meeting and we can bring that information back to the Council at that time.

Councilor Olivo moved to table this until we get confirmation from the engineer on the construction company. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

Mayor Pro-tem Miller stated next, consider personnel recommendation for Public Works position, Joe Jarvis, Public Works Laborer.

Public Works Director Gens said unfortunately Joe Jarvis could not attend tonight. He is a young fellow and he looks like he will be a go-getter. I think he will do a great job for the City and I recommend him for the position of Public Works laborer.

Councilor Morales moved to approve personnel recommendation of Joe Jarvis for Public Works laborer. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

Mayor Pro-tem stated next, consider personnel recommendation for DPS position CDO of Angela Ortega.

Chief Denny said Angela has worked with Ruidoso as a dispatcher and is currently working security. She will be filling our last dispatcher opening. I think she will be a great asset to our department and I ask that you consider her for hire.

Councilor Olivo moved to hire Angela Ortega for position of CDO for the DPS department. Seconded by Councilor Morales. Roll call votes: Councilor Olivo, Aye;

Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye.
Motion carried.

Code Enforcement Officer Dunlap arrived at the Council meeting and received his Employee of the Month award.

Mayor Pro-tem Miller stated next is the Parks and Recreation Committee report. Mayor Pro-tem Miller asked Public Works Director Gens to address the filling in of a hole on west edge of All American Park near the Denton well as Chairperson Bonnie Richardson of the Parks and Rec Committee was not in attendance.

Mr. Gens said I had this placed on the agenda and I was hoping that Bonnie would be here tonight. I had her put this on the Parks & Rec agenda also. We have some extra filler right now and I thought it would be a good idea to bring that up to grade and work on the drainage through there to add the extra footage to the park. Unfortunately not knowing the Park & Rec vote, I don't know if we can continue.

Councilor Olivo asked is that where the water drains into the Beavers' property. Mr. Gens said it does drain in that direction now. What we hope to do is alleviate a lot of that problem by filling this and this summer re-grading a lot of that park by working on the parking lot.

Councilor Garrett moved to approve filling in of hole on west edge of All American park near Denton Well in order to alleviate some of the drainage problems.
Seconded by Councilor Olivo.

Administrator Waters said for clarification, this is the low spot that is part of the park. It is within our park boundaries on the west side of the park between the basketball court and the Denton well. You do have a Master Plan that you approved for the park that includes that area for an amphitheatre some day. The drainage problems there might prevent that from happening. By putting the dirt might change that somewhat but that is something to consider in the future. It is just to let you know that area does have some future plans and if you do plan on changing it, it might be good to send instructions to the Parks & Rec Committee.

Mr. Gens said we are also using some of the fill from our drainage project to put a nice four inches of dirt in the back part of the ballpark. Also, since we put in our new traffic signal and we discontinued that roadway we are putting fill there to reclaim that as part of the park.

Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

PUBLIC INPUT

Councilor Garrett said I want to thank the museum staff this weekend. I went to the opening of Between Fences Sunday. It was really nice and they did a wonderful job. We really need to commend our staff at the museum.

George McCasland said I have a question about Central and why we can't get it paved. We can pave other streets around here. As Windsor Lacewell kind of brought it home why can't we pave Central. If it didn't need it I wouldn't be here bothering you. The next problem I have is I own cats and they are all neutered and they all have their shots. Peggy picked one up the other day. It had its collar on but it didn't have the tag because they lose the tag. It was \$25 to the pound and I gladly paid it but the \$300 it cost me to get the rest of the cats well when she came home from the pound ill, it seems like that is not fair. Next, we have two people, one on North Parnell and one on Central just won't clean their yards up and it looks terrible. I have been preaching to Tom and Mr. Dunlap about it. Mr. Waters has been in on it and I think he is on my side. I would like the Council to take a little more activity and get this matter resolved. Thank you for your time.

Joe Blaney said I appreciate the drainage project. However, we have a hole. We need the drainage. John, did you ever find out if it was in the project for fencing? Administrator Waters said it is in the interior but it is our intention to put one there. Mr. Blaney said it is going to need guardrails and fencing. It is going to need guardrails to keep cars from going through the fence. I am glad that we are getting the bottleneck issue solved too. Thanks, Dan to you and all of the guys.

Administrator Waters said just to add on to the River Park subdivision. As you are aware we didn't have the money to complete the entire project. Because it was one of our top capital improvement plan priorities last year, I did include that in our package to the state legislature. It is one of the projects we have asked to have partially funded so there is a chance we will be able to address Parnell and Central. There is also a small portion of River Lane that has developed somewhat of a pool that needs to be alleviated as well. All of that is included in the packet that I submitted. Generally, as you know the way I submit the packages are based on the priorities we passed in the prior year. Hopefully, we will receive funding. The other ones, of course, were the water project and the wastewater plant. We submitted requests for both water storage, water rights as well as wastewater extensions in the Agua Fria area and the North Parker Lane area in addition to the sewer plant. I did ask for \$500,000 from the legislature. I have never seen them give that much to a single entity before but there is always the hope. I asked each legislator for \$500,000. As you know a \$35 million plant \$1 million is a drop in the bucket. We are going to try to get our portion of it, which right now is fifteen percent or perhaps lower. In addition to the wastewater plant funding from ourselves I know that Ruidoso asked for a significant portion for the plant. We are continuing to build on the monies we received in prior years from Representative Dub Williams and Senator Rod Adair. They were very gracious and generous to us

last year and the prior year to give us monies for both our water projects and our wastewater projects. Certainly the City has a friend in both Senator Adair and Representative Williams. During this thirty-day session, which is a financial session with the State, they consider typically financial issues during this session. If you get a call from your local administrator asking for some serious help to lobby, it worked last year so if you are available talk to your legislators you are encouraged to do so. We certainly have been given a lot of money and the State does like Ruidoso Downs and we are going to continue to push for those projects.

Councilor Garrett asked is the governor still planning to replace the money. Administrator Waters said the last word I received is that the \$200,000, the \$100,000 from each municipality would be returned to us. We would not see it, however, until after the legislature. Of course, the legislature will have to go through its process. It will have to be reintroduced to be reauthorized from the governor's office. Then it will have to be approved by the legislature, approved by the governor and after that DFA has to certify its own budget. We won't see those grant agreements like we did this year probably until late fall. We didn't get our grant agreements for these projects until mid-September. At any stage during the legislature it might get fowled up; it might get included in the \$500,000 request. We are going to ask that it stay separate and hope that this \$500,000 is in addition to that.

Councilor Garrett said I am going to ask that we receive some kind of timeline for the wastewater treatment plant. I know that will take awhile to prepare. I think we need to move forward on that.

Administrator Waters said this is something that I have been requesting for awhile as well. Part of the problem we have is the engineering company that is working on it, Moltzen-Corbin & Associates, is doing the preliminary work. Before you have a project of this nature, the National Environmental Policy Act requires us to perform an environmental assessment on the project. The assessment is completed. Then you have a preliminary engineering report review and they are currently finishing that up. These are two preliminary stages before we can even go forward into the design phase. The initial part of the design phase, which I expect to start fairly soon, will then determine how much time we are talking about. Understand we have not even been sent an administrative order payment schedule or a compliance schedule by the EPA yet. What they have sent us is an administrative order that asks for information and says we are in violation. I think they have other things they are looking at, one of which is they are observing the Forest Guardians situation and they are awaiting the preliminary engineering report to be complete. They know as well as we do that adding this extra phosphorus treatment onto the plant is unique in their region and it is very rare throughout the United States. Taylor Sharp who is the compliance officer has met with me privately. We have discussed the City of Ruidoso Downs and its ability to pay for a plant like that. I am not worried about the capital as much as operating expense.

Mayor Pro-tem Miller called for a break at 6:10 p.m. to wait for Attorney Bryant.

UNFINISHED BUSINESS

Mayor Pro-tem Miller called the meeting back to order and stated next on the agenda, consider and approval of Resolution No. 2005-22, condemnation of 403 Nevada, Steve Eisler.

Attorney Bryant said I think first we need to take input from the public in favor of the resolution and opposed to the resolution. I know that Mr. Eisler and Mr. Harvey are here and they have progress to report to the Board in terms of their efforts both on the property physically and on their efforts to get title cleared and in their names so they can complete the renovation.

Councilor Garrett asked to hear the progress from them first.

Mayor Pro-tem Miller asked Mr. Eisler and Mr. Harvey to come forward.

Clark Harvey said we have a signed contract by both the heirs, the sisters. We now have two Affidavits of Heirship, which are required in order to pass title from Mr. and Mrs. Kingston who are both deceased to the siblings and in turn they can pass title to us. We also have some preliminary plans for the house and the documents of which we are speaking are in the hands of Mike Sealbach at GSV Title. He has turned those over to their underwriter. We expect to get some response but I don't know exactly when. I told Mike we needed something within the month. With some caution of confidence I believe we have everything that we need. The physical rehabbing of the property is something else. As we all know skilled labor is hard to come by in Lincoln County right now. Steve brought his son and one of his friends from Kansas to assist us in completing a couple of other projects so we can then turn our attention to Nevada. I think we can do at least one thing that will help the situation from a curb appeal point of view to further clean up the lot, do a little preliminary landscaping and get rid of that truck box that is there. I think we can begin to get really serious about fixing the house and bringing it up to standard within the early part of February.

Mayor Pro-tem Miller requested that this item be tabled until our first meeting in February. Councilor Garrett said I want to know they have title before we kill this. I want to know the title is there and things are going to be moving forward but I don't want them to feel pressured in the since that I don't think they can produce title tonight. I don't think any of the neighbors would be against that and I think they want you to fix the property. They need to have a timeline and they want to know. I would like to table it until the second week in February.

Attorney Bryant said you have the power to take that action tonight as a Board. I can tell you just on the basis of experience that I have handled a number of situations in my private practice where I had a decedent. I had a property that was

not in joint tenancy and in every single case we used the Affidavit of Heirship process which I outlined to these gentlemen in November in order to clear title. In my mind it would be an extraordinary circumstance for the title company underwriters to come back now and say this is not a doable transaction. That would keep the item on the agenda and keep it before you to allow Mike and his underwriters' sufficient time to get the transfer.

Councilor Garrett moved to table Resolution 2005-22. Seconded by Councilor Morales. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

EXECUTIVE SESSION

Mayor Pro-tem 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 Garrett 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 Morales. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Mayor Pro-tem Miller, Aye. Motion carried.

Mayor Pro-tem Miller closed the regular meeting at 6:33 p.m. and invited 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 Pro-tem Miller called the regular meeting back in session at 7:06 p.m.

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 Pro-tem Miller entertained a motion to adjourn.

Motion was made by Councilor Garrett and seconded by Councilor Olivo to adjourn at 7:06 p.m. Motion passed unanimously.

Judy Miller, Mayor Pro-tem

ATTEST:

Carol Virden, City Clerk/Treasurer