

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
FEBRUARY 27, 2006

The Council of the City of Ruidoso Downs met in regular session on February 27, 2006. Mayor Miller called the meeting to order at 5:30 p.m. and asked Bonnie Richardson 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 Olivo moved to approve the Agenda. Seconded by Councilor Miller. 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 Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF FEBRUARY 21, 2006 RESCHEDULED MEETING

Motion was made by Councilor Morales and seconded by Councilor Garrett to approve the Minutes of the February 21, 2006 rescheduled 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 Garrett to approve the Accounts Payable. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

MONTHLY REPORTS

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

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

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

UNFINISHED BUSINESS

Mayor Miller stated next item on the agenda, consider and approval of Resolution No. 2005-22 Condemnation of 302 Nevada, Steve Eisler.

Steve Eisler and Clark Harvey came to the podium. Mr. Harvey said we hope that Item 11.C under New Business will not be necessary. Attorney Bryant said Item 11.C is the same resolution but it names Sharla Ryen's deceased parents and it just ties up all of the loose ends. Perhaps what would be cleanest is to do a motion to combine these, then let Mr. Harvey and Mr. Eisler give their presentation and then you can take action on both of these at once.

Councilor Morales moved to combine Item 9.A, Consider and approval of Resolution No. 2005-22 Condemnation of 403 Nevada, Steve Eisler and Item 11.C, Consider approval of Resolution No. 2006-03 Condemnation of 403 Nevada, Archie Kingston and Joann Kingston. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mr. Harvey said the title has now been transferred of the property so we have good title. We have had people out there the last week cleaning up. The biggest cost of this project may be cleaning it up and getting it ready. We believe we can now continue. I think the plan is to get the outside cleaned up, get that old truck body cut up and out of there. We are going to have to stabilize some parts of the lot, then we can get started on the inside of the house. We have another project going on right now which we believe we will finish up pretty soon and then we can focus on this project.

Councilor Miller moved to remove permanently Resolution No. 2005-22 and Resolution No. 2006-03. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

OTHER BUSINESS

There was no other business.

NEW BUSINESS

Mayor Miller stated next item on the agenda, New Mexico Rural Water Presentation, Source Water Protection.

Keith Candelaria introduced himself and said I am basically here to let you know what type of projects New Mexico Rural Water has been working on in collaboration with the Public Works Department. I work for New Mexico Rural Water as a Source Water Protection Specialist. We are an association that is non-profit. We have about fifteen stock members on board now and what we basically do is assist and provide technical assistance to rural water systems as well as other water systems throughout the State. My job is to go throughout the State and assist rural communities in protecting their drinking water sources by creating the Source Water Protection Fund. About five months ago the City of Ruidoso Downs Public Works Department and I have been working on the Source Water Protection Fund.

Mr. Candelaria passed out handouts and said one of the copies is a Source Water Protection Plan. Briefly this will tell you the basic five steps New Mexico Rural Water utilizes to form a plan. Step one is form a community planning team. Basically we pick up anyone that wants to get involved in this process and we go forth from that. Step two we delineate the protection area and we go by a standard radius that we place around each wellhead or any water source and that is a quarter-mile radius. I went out in the field with some public works employees and plotted your drinking water sources with a GPS unit and placed them on a map that I passed out to you. Currently, I understand the City is running off of two water sources, one of which is a spring and the other which is a well. Step 3 we take an inventory of potential sources of contamination. We go out into the field again, look around within that quarter mile radius and look for any possible contaminants of your water source. Once again we plot these points with a GPS unit and plot them on a map. I also included the radius of the well to be drilled. Step four is where we manage the source water protection area. We go over the possible contaminants and relate them to the chart handed out to you called the Source Water Protection Program Management Strategies. You can take certain activities and make recommendations for the water system in order to prevent contamination to your water resources. We have a blank spot to list the responsible department or possible group of people who would like to implement and take on the activities to protect the source. The last step is step five to create a contingency plan. We basically gather some current phone numbers that the water system can utilize in case of any emergency to your water system. For an example, if one of your water sources were to get contaminated what other sources does the community have to bring in water to the consumers. We want to have a quick response to that to prevent contamination to your water system. Once the plan is complete, I recommend that

they update it once a year just to know of any changes in your water system. That basically is what this plan is about.

I wanted to go over this to show you what I have found in the area and what the planning team and I have discussed so far. First, on page 1, well outside of secure area. I noticed your Denton well and your spring are not enclosed in a secure area. There is no fencing around it. We want to place a fence around that because we want to prevent any vandalism to those water sources. Basically, anyone can break in and pour something down your well casing or tamper with the spring. On page 2, you can see abandoned well. The Denton well, I understand you drilled a new well but your old well is still sitting there and has not gone through proper abandonment. The way we usually take care of that is pour some cement down the hole and cap it with steel reinforcement so people aren't able to get into it. That is one of the quickest ways you can contaminate your aquifer is that well sitting there and it has a straight shot to your aquifer. Page 3, you have animal feeding areas there. I looked at your proposed well site and I looked upstream and noticed there are plenty corrals in the area. I would keep an eye on that depending on how deep your well is. If your well is not drilled far enough you could be pulling water from the river. When you do that you want to keep eye on what is going into the river upstream. The other item to keep in mind is if you dig a deep well hopefully you will break through some defining layers. By that I mean clay layers. Clay usually keeps the water from infiltrating faster than a sand layer. On page 4, your well is pretty close to the highway. If there is ever a spill from an accident you want a quick response to that to avoid contamination. Usually the communities work with the fire department in this situation. I want to mention that New Mexico Rural Water Association is not a regulatory agency. We here to provide technical assistance and make recommendations where we feel it may be needed.

Administrator Waters asked if the outhouse on his report was currently used or abandoned. Mr. Candelaria said this is what we go by and some of these don't apply to your community.

Mr. Gens said thank you, Keith. He is just a service to help us provide a better service to the community and help guide us to do a better job.

Mayor Miller thanked Mr. Candelaria for his presentation.

Mayor Miller stated next item on the agenda, consider approving Resolution No. 2006-02, Mid-year budget adjustments within fiscal year 2005-2006.

Administrator Waters said unfortunately this is hot of the press. This is the mid-year cleanup. You will notice in the Museum Fund funds have been taken out of the expenditure side in accordance with your wishes to basically give the operations of the Billy the Kid Byways Center over to Ruidoso. In addition throughout the General Fund there are changes listed. We have pieces of equipment and vehicles

we have been trying to accommodate. As you are aware, because I have been providing you with our gross receipts information, two of the last four months checks have been very low. We had the one fifty percent below the prior year. We got a surprise a couple of months later with one that was almost twenty-two percent below. That does certainly put us at a disadvantage. Currently the last low check that we received has not been made whole. Essentially our last month's check was the same as the prior year. We are talking still to the State Taxation and Revenue Department. Mr. Bill Fulginiti who is the Executive Director of the New Mexico Municipal League is working to try to get the situation in Ruidoso Downs, the situation in Clayton and the situation in Santa Fe resolved. We understand the Taxation and Revenue Department have had a meeting with Santa Fe. According to Bill he is trying to get me in with them and hopefully have a meeting in the next couple of weeks. Santa Fe was satisfied we were told after their meeting with Taxation and Revenue. If we can solve this mystery before the end of the fiscal year, the departments will be made whole. If we cannot then obviously we will have to plan for the next fiscal year with a smaller budget because we have to make sure we have enough in reserve. This does allow for the police vehicle, it does allow for the administration vehicle that the mayor has requested, it allows for the museum. You can see that the museum is in good shape. Mr. Smith has been working to refine it even further. We are certainly interested in continuing its success. General Fund is something we will have to watch very closely on a month to month basis.

Councilor Olivo asked did any of the supervisors have a chance to look at this for the changes made in their departments since we just got it tonight. Administrator Waters said a lot of the changes in here but not all of them were from mid-year adjustments turned in by the supervisors. I would say they have seen about 75 percent of the changes. Chief Denny did get a chance to work with us on the overtime and the vehicle at least through this year.

Councilor Olivo made a motion to table this because I haven't had a chance to look at it at all. Motion died for lack of a second.

Councilor Miller moved to approve Resolution No. 2006-02 Mid-Year Budget Adjustments with fiscal year 2005-2006. Roll call votes: Councilor Olivo, Nay; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda consider approving personnel recommendations for DPS officers.

Chief Denny said I would like you to consider my recommendation for two public safety officers. I would like to start with Mr. Alvarez. Richard retired with the Air Force as a security policeman. He worked for the Alamogordo DPS and most recently the Lincoln County Sheriff's office. He has recently been working with the Mescalero Apache tribe as a gaming agent. He also has his advanced 230 which

means he has additional training above and beyond the basic certification which is a plus for us. Once again, I would like to recommend Richard Alvarez.

Councilor Olivo moved to approve hiring Richard Alvarez as DPS officer. Seconded by Councilor Morales. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

Chief Denny said Steven Dobbs' police career started out with us. He has since worked for the Ruidoso police department and the Lincoln County Sheriff's office. He has been working for himself recently and he has decided to get back into law enforcement. He missed it and he probably misses the benefits because he has a little one. One of the things he talked about in the interview, which I particularly liked, he made a point of passing every house at least four times per shift and that is the kind of activity we want to see. I would like to recommend Mr. Dobbs for the DPS position.

Councilor Olivo moved to approve hiring Steven Dobbs as DPS officer. Seconded by Councilor Miller. Roll call votes: Councilor Olivo, Aye; Councilor Miller, Aye; Councilor Morales, Aye; Councilor Garrett, Aye. Motion carried.

PUBLIC INPUT

Administrator Waters said I have a couple of items I think are of interest to everybody. First of all, the one million gallon water tank is in the painting process. We are painting it a green color that will blend in with the trees. It will be finished pretty soon. We also have the issue of fixing the streets that were torn up during the water project. I am happy to report that I had a meeting last Friday with Carl Kelley of Carl Kelly Construction and our engineer, Charlie Leder. We have come to a tentative agreement. Mr. Kelley expressed his apology; he had some sub-contractors that were working on the cuts that didn't subcompact the cuts. He admitted that the oil he got for the streets was bad oil. He has had some problems in getting a response from those entities that did work for him. However, he did state that he is going to be giving the City funding at our cost to replace the double penetration chip seal oil and the chips. In addition, he is going to arrange for us to have a tank placed at our public works yard to have the oil on site so Mr. Gens' crew can do the patching when the weather permits. We still have some areas that have to be compacted; they will have to be dug out. I understand Nevada, North Central and S. Parnell have some pretty bad spots on them. We hope to have a formal agreement on that fairly soon but Mr. Kelley was straightforward in identifying that. In addition, there were some other problems. There was pipe put in the PRV station at the Joe Welch station that is on the corner of Service road and Joe Welch. That material is of a plastic component and it is going to be replaced with iron and then there are going to be some leaking joints fixed up. Those were final issues that came out of the closure inspection that ASCG did. We have reached an agreement and those will be corrected.

As those of you know that live on Escalante, Parkway, North Parker or Agua Fria, any of the roads the Public Works department did during the last part of summer, they did a fantastic job at their first shot at any street. I know mine looks good and I have heard good comments about Escalante and North Parker. Certainly they have the ability and the equipment to do it. They will be fixing those streets after they dig out some of the bad pothole areas. Hopefully, we will get those roads corrected.

Councilor Olivo asked when do you think we will be able to use the water tank. Administrator Waters said it is my understanding they are going to try to hot tap a line to connect it in. If they are able to do that they will be able to start filling it in March. Now, if they can't tap that transite line, it will probably take a day of people without water service. That will take a little more time but they are still anticipating the start of operations of filling it up sometime in March depending on when the paint cures.

Councilor Olivo asked how long will it take to fill the tank and Public Works Directors Gens said at least two weeks if we get it early enough in the season. Councilor Olivo asked will we have to drain half of it out in order to put chlorine in there after testing it and Mr. Gens said we can shock the system after it is full.

Councilor Olivo asked how are we coming along with the well. Administrator Waters said that is the next thing I was going to go into. I have a map, which not only has the well but the CDBG plan. They are both being handled together. It has made for a little bit slower process through the State because you are dealing with two series of grants. However, this project has a lengthy contract package. The State got a hold of this particularly the State's Environmental Department and they are changing their rules on standard contracts for engineering firms so they have rejected it based on three or four different items. They also rejected several other cities proposals. We received this on February 23rd. Charlie Leder said he and several other municipalities have met with folks from the Constructions Bureau and they are going to try to get that taken care of. Currently it is a contract issue that we are dealing with. Apparently there are a lot of other cities and engineering firms that are using similar contracts and the State is changing its policy a little bit. I have sent notice to the State, I have called several members of the Construction Bureau asking them to speed up the process because we are trying to get it on line by the summer. According to the engineer he doesn't see this as a large deal and he still thinks we will have the well on line by the summer. The lines down the highway will probably be under construction during the summer. There is a contingency that will also allow water to possibly feed back into the Griffith spring, however, we realize that would be a little bit more expensive. We don't know if we have the funding to do all of that. At the very least we are going to get the well drilled, hook the well up to the system and try to at least get it to the Redman tank so we can actually utilize this water this year as we produce it. It is fortunate that we did have Senator Adair and Representative Williams and the governor work with us last year

because we were able to combine all of this into a single program even though they are two large grant programs, the severance bonds and the CDBG program.

Councilor Olivo asked you show here putting water in the Redman tank but what about the line going down Wood Lane; they have so many water leaks.

Administrator Waters said if the amount for this is within reason, Wood Lane is one of the highest priority residential trunk lines we have. However, the main transmission line from the well to the system is a top priority. The next one on the list is going to be Wood Lane.

Councilor Garrett asked on this agreement we are making for the oil, are we going to know we have enough for the roads. Administrator Waters said yes, we sent Charlie Leder out to measure the square footage of the roads. Mr. Kelley intends on taking care of us. He did express he was trying to handle some of the issues with his subcontractors and he had several issues with them but he wanted to fix the problem. It was an informal agreement but he is willing to make it formal. We will make sure the amount is sufficient to fix those areas that were cut.

The residents on Colorado affected by the property directly above them approached the podium. A spokesperson said we are here about the lot behind our houses. There were five acres that were sold from Monroy Chavez and it is behind Colorado Lane. That was back when the back of our property was county and they turned it into City. I don't know how he is doing it but he is digging into the mountain and not preparing it for the rains. It is all going to go down on our property when it rains. He built a deck on the one right behind my house. It is not cemented in; it is just on the bank. When it comes a good rain, it is all going to be in my backyard.

Councilor Garrett said it is my understanding that it is a single family and a single lot and they ended up with extra things on there.

Councilor Miller asked did they not get building permits and one spokesperson said I have no idea. Another spokesperson said they built the land high up. Otherwise it would have been level with hers. It is all loose dirt up there and Sean's property, his backyard will be destroyed.

Councilor Olivo asked you are more concerned about the run off water when it rains. The spokesperson said there is no drainage from there on down to Colorado. Councilor Garrett said I think we need to look into what is going on.

One spokesperson said the road is so terrible that they are rutted out now. The road that runs up between mine and my neighbor's house is G&R Road because Gilbert Gonzales gave so much of their land back then to make the road to go up to the five acres. We heard that he was planning on putting ten trailers up there on that five acres.

Councilor Miller said usually if you fill dirt in you have to have a permit for that too. One spokesperson said he moved out a very small singlewide pushed it down the hill and put a doublewide in.

Councilor Olivo asked Tom Armstrong to comment. Mr. Armstrong said the road that comes by your house is in the City and needs to be done by the City. This was done in 1999. The property was in the county at that time. In 1999 it belonged to Gilbert. They had their plans they were working on. They moved the property around at that time. It was approved for the first 140 feet. They did the cul-de-sac which was in the county and it couldn't be approved because it was in the county. In the meantime, Gilbert sold the other five acres in 2003 and Mr. Frankel bought it. He was to continue on with his plans. They had three sites for the homes that were up there. They came before the P&Z Board in January 2004. After doing a lot of work with them they wanted to have a final plat. The final plat did not show drainage, it did not show easements for sewer and water so I turned it down at that time. We met with the owners, Chavez, Monroy and whoever else owned that property. They were told at that time they had to come in with hard surface pavement for that road so we could handle the drainage problem. The easements for the water and sewer they had to be on individual lots with meters with their other drainage problems handled. They were to do this. They are still working with me. They had to get a drainage engineer and they looked at it and the other problems along the backside there. They are going to fix the areas where the drainage is at and that should happen pretty quick. It is being looked at. It was turned down as a subdivision because they didn't meet all of the drainage problems. The other site locations were O.K. I sent out eighteen letters to the residents in 2004 and I don't believe I got anybody that said they were against the lots being subdivided. The problem was the drainage and that is what they are still working on. They will come back in with a plan that can be O.K.

A spokesperson asked will it be before we get any rain. Mr. Armstrong said I think so because I have touched base with them again and they said we need to get a place for the water to go. The spokesperson said my neighbor's car bottoms out. Mr. Armstrong said this road has always been a problem since they made it and it never was finished up. At that time the City did not regulate the types of roads that were there. They put this chip asphalt on it which helped. We are working to eliminate this problem. They all will be single-family residents. They are all doublewides. Three of the sites are on septic tanks right now so all of this will change pretty soon. I have touched base with them and they are not here to explain where they are with this. I do know where they are because I have been in contact with them. Being in California is a long ways but there are phones and he has instructed his people here, engineers, because that is where we stopped it last time because it did not meet the requirements here. They wanted to bring in the other five acres but they still have the problem of the drainage. In the meantime, we are looking to the areas of your home you bought from Gilbert and there is a problem here. There is a berm but that should go away because the road will be built up to a certain extent. It always

drains between your home and the next one. We don't want that. We want it to drain over to the road and then down where the City can handle it.

The discussion continued about the drainage and the road. Attorney Bryant said this conversation needs to be taken out of the City Council meeting and into Mr. Armstrong's office tomorrow morning or Mr. Waters. Thank you for bringing it to us. The Council has asked the administration to look into it. We will stay on top of it and certainly make sure we get some action taken.

Councilor Garrett said I want to announce there is going to be a cancer support group that is going to be formed for the entire area. Their first meeting is tomorrow at 5:30 p.m. Dr. Lindsey is going to speak and give any kind of information he can. They are going to have it at the oncology clinic at 208 Porr Drive. Any family members, anyone that has been involved with cancer they want to make sure everyone is welcome.

James Burrow said I live on Colorado Street just east of where these people were talking about the drainage system. I do want the administration to get on with that. Right now the drainage where those trailer are runs down onto Colorado Street. From there it goes down to Utah Street and then it comes down. Councilor Olivo said it comes right down my driveway. Mr. Burrow said I think my personal opinion is that we all have a drainage system up there before we move any more houses up there.

Mayor Miller said we are going to take care of it.

Councilor Garrett announced that before we go into executive session we have a cake for Margie Morales and we thank Margie for all her service for all this time. We want everyone to stay for cake and take a longer break than usual.

Mayor Miller thanked Councilor Morales for her sixteen years of service. Councilor Morales thanked everyone.

EXECUTIVE SESSION

Mayor Miller entertained a motion to go into Executive Session pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H)7, Threatening and or Pending Litigation and Real Property and Water Rights pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H)8.

Motion was made by Councilor Morales to go into Executive Session for the discussion of Threatening and or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H)7, and Real Property and Water Rights pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H)8. Seconded by Councilor Garrett. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Councilor Miller, Aye. Motion carried.

Mayor Miller closed the regular meeting at 6:40 p.m. and invited City Attorney Dan Bryant, City Administrator John Waters and City Clerk Carol Virden to attend the Executive Session and called for a ten minute recess to clear the Council chambers.

Motion was made by Councilor Morales and seconded by Councilor Miller to go back into regular session. Mayor Miller called the regular meeting back to order at 7:33 p.m. Roll call votes: Councilor Olivo, Aye; Councilor Morales, Aye; Councilor Garrett, Aye; Councilor Miller, Aye. Motion carried.

Councilor Morales attested that the only item discussed in Executive Session was Threatening and or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H)7, and Real Property and Water Rights pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H)8 and no action was taken.

Mayor Miller entertained a motion to adjourn.
Motion was made by Councilor Morales and seconded by Councilor Olivo to adjourn at 7:34 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer