

MINUTES OF THE CITY COUNCIL
RESCHEDULED MEETING
OF THE CITY OF RUIDOSO DOWNS
MARCH 29, 2006

The Council of the City of Ruidoso Downs met in a rescheduled session on March 29, 2006. Mayor Miller called the meeting to order at 5:30 p.m. and asked Dr. Mike Elrod to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Hood	Councilor Miller
Councilor Holman	Councilor Garrett

Administrator Waters informed Mayor Miller there was a quorum.

Also present:

John P. Waters, City Administrator
Carol Virden, City Clerk/Treasurer
Dan Gens, Public Works Director
Robert Denny, Department of Public Safety Director
Jay Smith, Museum Director

APPROVAL OF AGENDA

Mayor Miller pulled Item 11.F. under New Business, Consider approving personnel recommendation to hire DPS position of Fire Lieutenant, Jerry Smith, as he has reconsidered the position and then entertained a motion to approve the Agenda. Councilor Miller moved to approve the Agenda. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

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

APPROVAL OF MINUTES OF MARCH 13, 2006 ORGANIZATIONAL AND REGULAR MEETING

Motion was made by Councilor Garrett and seconded by Councilor Miller to approve the Minutes of the March 13, 2006 Organizational and Regular meeting. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

ACCOUNTS PAYABLE

Motion was made by Councilor Garrett and seconded by Councilor Miller to approve the Accounts Payable. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

MONTHLY REPORTS

Motion was made by Councilor Garrett and seconded by Councilor Miller 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 Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

UNFINISHED BUSINESS

None

OTHER BUSINESS

Mayor Miller stated under Other Business, Preliminary Report of Findings at Site LA 49490. Administrator Waters said we have been doing a sewer line construction project on Miriam Drive. Back in the late '90's we found a Native American skeleton that washed out of a ditch and had to be repatriated or buried in the ground. That area has a lot of significant archeological remains on both sides of the road. We found last week that they actually have them under the road as well. While the construction crew was digging through the street about 25 yards from the gravesite that is currently there, this gravesite was picked up within a 24 foot bucket and scattered the bones on the spoils pile. Once it was detected, I went up and confirmed that it was human bones. Kim Williams of the museum and I sorted through the spoils pile and located about a quart-size bag of human bones. These bones were then sealed up and given to the police department. The Office of the Medical Investigator was contacted. They confirmed these bones were ancient bones then the State Preservation people in Santa Fe were contacted after that as is per procedure spelled out in State law. The State recommended we get an archeologist to screen the rest of the spoils and to examine and evaluate the site. We contacted Four Corners Research out of Tularosa who sent archeologist, Sharon Brown, to screen. She did get quite a few more bones that looks like the rest of the skeleton. They also examined the wall of the trench where the gravesite was hit and determined this particular gravesite is part of a trash pile. This culture apparently did take their dead and put them in an area where they also had broken pots and broken tools. In addition to actually having to screen out the pile and repatriate these bones, which the archeologist is handling through the State Historic Preservation office, they also have to monitor the area immediately around the site while they are digging. They did allow us to come from the extreme southern end

of Miriam back down towards the bend but they were to stop when they got close to the original trench that was hit and is to be monitored by the licensed archeologist from that point through. We have a contract with this firm for \$3,200 to do the screening operation, to repatriate the bones and to check the rest of the trench where the gravesite was hit. But, they also have an additional amount of \$1,000 to \$1,200 for monitoring while they are trenching the remaining area. We were fortunate to have an archeological firm in Tularosa that was ready to come right up and start the screening. A lot of times this stops your project for days. There have not been any further skeletal remains hit and hopefully we won't find any more.

Councilor Hood said Chief Denny, I would like to thank you and your personnel coming down yesterday and helping me out with my little accident. They were very corrigible and I appreciate it. Chief Denny said you are more than welcome; that is what we are here for.

Administrator Waters said I spoke with Elisa Davis from the Southeast New Mexico Community Action Corporation, the Board that I sit on at the Mayor's pleasure. They are going to be putting on the group work camp in this area to repair elderly, disabled and disadvantaged citizens' homes throughout town. They have sixty-five homes in this area that they are going to repair. These are basic repairs; they can't do things like extensive plumbing or electrical work. They are going to be building outside handicap ramps, fixing window seals and basic repairs. I am happy to report that 31 of the 65 chosen so far are from Ruidoso Downs. I had Bill Dunlap and Tom Armstrong locate as many of these folks as possible to get them in touch with Elisa Davis' staff. There are 23 or 24 in Ruidoso and the rest of them are between Glencoe and Capitan and a few homes in Carrizozo. It is going to happen in the community from July 3 to July 8, 2006. They are expecting about 600 kids from church groups around the country to help fix these homes. If you see them around, thank them for helping out our citizens.

Councilor Garrett said I just want to thank Kenny Ellard from the Fire Department. His report looks really good. It gives us lot of information. It is probably the best fire report I have seen and I really appreciate it.

NEW BUSINESS

Mayor Miller stated next item on the agenda, Regional Transit Authority presentation by Dr. Gary Jackson or Dr. Mike Elrod.

Mr. Elrod said I appreciate the opportunity to visit the city councilors. I am the director of the ENMU Ruidoso campus. I have been here a little over a year now. I am involved in a number of initiatives in the community and the one I want to present to you today is dealing with what we feel is a growing need in the area for public transportation. Serving on the Board of the Ruidoso Valley Chamber of Commerce, a group of us got together a little over a month ago and started looking at public transportation issues of what we feel are growing needs in all of our

communities. Public transportation is a public service and it is a growing service in many communities and smaller communities. We live in an area that is very rural and at the same time we have a growing population. We are also focusing on economic development. Of course my interest is providing education for those who wish to pursue education where we can develop a stronger workforce, where we can develop and provide opportunities for students both young and old to participate in their education so they can better their lives and their family's well being. Unfortunately, we have many students that would love to attend ENMU Ruidoso and they live in the Downs. We have a high percentage of our students comes from the Downs and dependable transportation is often an issue. According to the census from 1990 to 2000 Lincoln County grew by over 7,000 folks. We feel there is a growing critical mass between Ruidoso proper and the City of Ruidoso Downs as well as the growth going northwards towards Alto and Capitan. Now, with the expansion of the Inn of the Mountain Gods, they have approximately 1,400 employees over there. Visiting with them they tell us there are folks that live in Ruidoso they see often walking to and from work and that is quite a distance. Even though we live right here, what may be considered prosperous, we have many of the same needs in terms of socio-economics and terms of those who have a need for public services. The group has done a little research. There are different municipalities that currently have public transportation systems in place and they vary from community to community. They can be smaller vehicles and set up where they almost serve as a taxi service. The critical gap we see right now is the taxi service went out of business and their is limited service for the seniors although the service that is provided between the Downs and the Village is quite good for the seniors. We also have our Lincoln County Work Center in which folks are in need of assistance to go to school. They can't afford to go to school. They are receiving support from the State through the Workforce Investment Act. Even though the service they are enrolled in allow them to pursue their education, they pay their education and their transportation but there is nothing there. There is a limited service that comes from Alamogordo that drops them off and picks them up in the afternoon. There are no additional routes during that time period. It is not a useful service although their intentions are well meaning. The reason Dr. Jackson couldn't be with you today is, of course, medical. We feel like this is something for the overall quality of our community and that it is something that would add great value. We feel it could add great value to the economic development and the community development as well with tourism. The funding available are both federal funds and particularly there is funding set aside for rural communities but it is also matched locally so it would require some collaboration. We feel the collaboration between the Village and the Downs initially, and potentially bringing along contractually or otherwise the Inn of the Mountain Gods and other communities that foresee the need. We feel this is something that could be viable in our area. The funding for this actually is not available for applying for a grant until the fiscal year 2008 so we are a ways out but the application would be due this October 1, 2006. We would like to engage the Council or Mr. Waters to join our group or whomever, Mr. Mayor; you feel would be appropriate to continue with our

meetings so we can explore the opportunity. What would be required from the municipalities that are interested in pursuing this is a Letter of Commitment to apply for funding. There is no obligation at this point or through the letter.

Councilor Miller said I think it is very necessary and thank you for your interest in it. I recommend that the city write the Letter of Commitment because I feel it is needed.

Administrator Waters added that the summer tourism could offset the cost.

Mayor Miller thanked Dr. Elrod for his worthwhile presentation.

Motion was made by Councilor Garrett and seconded by Councilor Miller to approve Resolution No. 2006-04 authorizing signatures for the City of Ruidoso Downs accounts with all local financial institutions. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Garrett and seconded by Councilor Miller to award Bid No. 06-010 used full size vehicle 2005 model or newer to Ruidoso Ford Lincoln-Mercury in the amount \$15,500. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Garrett and seconded by Councilor Miller to approve advertising for bid for repair and upgrade fire suppression (sprinkler) system in the museum. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving personnel recommendation to hire DPS position, Communication Detention Officer, Lois Atchinson.

Chief Denny said I would like for you to consider an addition of a communication detention/dispatch officer; we have one last opening at this time. I ask you to consider Lois Atchinson. She comes to us from the Tularosa Police Department with over ten years of experience. She was certified at the academy so she is ready to go.

Councilor Hood moved to approve personnel recommendation to hire Lois Atchinson for DPS position of CDO. Seconded by Councilor Miller. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving personnel recommendation to hire Hubbard Museum of the American West Position of Administrative Secretary, Celina Telles.

Museum Director Smith said we have recently advertised for the position of administrative secretary, which is an upgrade over the former receptionist position we had at the museum. After several months of looking at the staffing situation and observing our needs, Mr. Waters and I came to the agreement that it was necessary for us to look at an administrative secretary to handle the critical duties of the front desk as well as to handle some of the other responsibilities such as daily receipts for the museum. Ms. Telles was our number one choice. We had thirteen applicants for the position and there were seven or eight very good ones in this group. Ms. Telles comes to us from Las Cruces where she worked in the office of a couple of attorneys and has extensive professional experience and background and working with computers. I know that she will make a great addition to the museum and would like to recommend her for hire. She is in the audience this evening.

Councilor Miller moved to hire Celina Telles for the position of administrative assistance for the Hubbard Museum. Seconded by Councilor Garrett. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving personnel recommendation to hire Hubbard Museum of the American West position, Outreach Assistant, Marcy Prince.

Museum Director Smith said we have been looking at hiring an outreach assistant which will assist us in both exhibits, programs and in the gift shop especially during the tourist season. Ms. Prince comes to us from here in Ruidoso. She has extensive experience in sales. She worked at the Cornerstone Bakery and also has a degree in communications from the University of Texas in Austin. She worked with Austin City Limits when it was getting started as a television show. She will make a great addition to the museum and highly recommend Marcy Prince for the outreach assistant position. Ms. Prince is in the audience this evening.

Councilor Garrett moved to approve Marcy Prince as outreach assistant for the Hubbard Museum of the American West. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Garrett and seconded by Councilor Miller to approve elected officers of the City of Ruidoso Downs Department of Public Safety, Fire Department. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, Committee report of the Planning and Zoning Commission. Paul van Gulick said there is one item before you from Planning and Zoning. It is a request for a conditional use permit, Planning and

Zoning Case #2006-01, for the La Quinta Inn & Suites at 2115 West Highway 70. This is where Frank's Fruit Market used to be. They came before Planning and Zoning to request the height of the building of 51 feet and the number of rooms of 63 which does exceed what is permitted under the zoning ordinances so they had to come for a conditional use permit. There were no protests on the height or the number of rooms. The only protests at that time were from M-W Limited Partnership, which would be Joetyne Wright. They just had some questions about drainage, access over the lands to sewer, and a fence. The two parties, one representing the new hotel and the folks from M-W Limited Partnership, were able to reach an agreement between themselves. As there were no other objections, the Commission met again for a hearing. At that time we were presented with the agreement they reached. They reviewed the drainage plans, the fence and the access to the sewer and found those to be in agreement with the other paperwork we were given. There were no other protests so our recommendation unanimously is to recommend approval for the requested conditional use permit.

Councilor Miller moved to approve the Planning and Zoning recommendation of a conditional use for the La Quinta Inn & Suites for a building height of 51 feet and for 63 guest rooms. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, introduction of the following proposed ordinances and asked Mr. Waters to enlighten the group.

Administrator Waters said what we are proposing to put before the Council and the public are ordinances that deal with our problem in the Rio Ruidoso stream system. The river is polluted with phosphorus. Some of the phosphorus we can control and some of it we cannot. We have the wastewater plant, which we are going to be redoing at a substantial cost. It is somewhere between \$30 and \$35 million depending on when we start this project and what is actually going to be required to produce the plant. It is essentially a new wastewater plant. We have talked about other things such as getting folks off the septic systems and into the city sewer. City sewer plant itself may be overloaded at times but city sewer is a lot better than a septic tank at being able to take phosphorus out of the groundwater. We have been hooking folks up and have made the commitment to hook up to the sanitary sewer system. One thing we do not have so far that we have committed to the EPA, and both municipalities have committed to this several years ago, is the control of phosphorus, both phosphorus that is coming into the plant through the pipe as well as phosphorus making it down through the storm water system into the river system. Phosphorus comes in several different forms but one of the most abused forms we have is fertilizer. We want to take all of the municipal influences that we can off of the river. Therefore, we are going to read these two ordinances into the books. We have a session on the 10th to allow for public input to give people a chance to read the ordinances and then the actual public hearing, if the Council asks

us to proceed with this, will be scheduled for the last meeting in April. This particular ordinance is common up north. The retailers know that they don't get products with phosphorus in them. With one of the most stringent wastewater permit requirements in the entire nation as far as phosphorus goes, we certainly qualify for this type of ordinance. The EPA is watching to make sure we fulfill our obligations. Ruidoso has been sent a copy of this through our legal staff. They are probably going to be pursuing the same thing. Mr. Bryant has reviewed this and asks that you look at it. There are a couple of items that we will be adding, the Severability Clause and the Authority.

Councilor Garrett said I want to make sure we communicate with Ruidoso because I don't think this is something that will work unless both communities do it. It was done through the wastewater treatment plant and the Joint Power Agreement and I think we need to communicate that by calling them. Administrator Waters said that is something that we are committed to doing. We are taking the lead in this and hopeful that Ruidoso will follow suit because they are obligated to do this as well.

Administrator Waters read the proposed ordinances:

ORDINANCE 2006-01

STORMWATER POLLUTION PREVENTION PROGRAM- PHOSPHORUS
ESTABLISHING REGULATIONS FOR LAWN FERTILIZER APPLICATION &
SALE

**ENACTING AN ORDINANCE UNDER CHAPTER 4 TITLED
"DEPARTMENTS" ENACTING NEW ARTICLE 8 TITLED "STORMWATER
POLLUTION PREVENTION PROGRAM- PHOSPHORUS ESTABLISHING
REGULATIONS FOR LAWN FERTILIZER APPLICATION & SALE" SECTIONS
1 THROUGH 11 OF THE CITY OF RUIDOSO DOWNS CODE OF
ORDINANCES**

WHEREAS, this ordinance is intended to promote the general health, safety and welfare of the people of Ruidoso Downs; and

NOW THEREFORE, be it ordained by the Governing Body of the City of Ruidoso Downs, County of Lincoln, State of New Mexico, that:

Chapter 4 of the City of Ruidoso Downs Code of Ordinances is hereby amended to include the following provisions as the new Article 8 Sections 1 through 11 of Chapter 4:

- Section 1. Authority.
- Section 2. Purpose And Intent.
- Section 3. Applicability.

- Section 4. Definitions.
- Section 5. Regulation Of The Use And Application Of Lawn Fertilizer.
- Section 6. Exemptions.
- Section 7. Sale of Fertilizer Containing Phosphorus.
- Section 8. Enforcement.
- Section 9. Penalty
- Section 10. Severability Clause.
- Section 11. Effective Date
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- Section 1. AUTHORITY. **Do we need an authority clause?**
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- Section 2. PURPOSE AND INTENT. The City of Ruidoso Downs City Council finds that the Rio Ruidoso is a natural asset, which enhances the environmental, recreational, cultural and economic resources of the area and contributes to the general health and welfare of the public. The City Council further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in fertilizer, entering the river will improve and maintain lake water quality.
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- Section 3. APPLICABILITY.
- This ordinance applies in all areas within the corporate limits of the City of Ruidoso Downs.
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- Section 4. DEFINITIONS.
- (A.) "Agricultural use" has the meaning set forth in sec. 47-9-5A NMSA 1978 for "agricultural facility."
- (B.) Fertilizer has the meaning set forth in sec. 76-11-3 D. & E. NMSA 1978.
- (C.) Lawn fertilizer means any fertilizer, whether distributed by property owner, renter or commercial entity, distributed for nonagricultural use, such as for lawns, golf courses, parks and cemeteries. Lawn fertilizer does not include fertilizer products intended primarily for garden and indoor plant application.
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- Section 5. REGULATION OF THE USE AND APPLICATION OF LAWN FERTILIZER.
- (A.) Effective September 1, 2006, no person shall apply any lawn fertilizer within City of Ruidoso Downs that is labeled as containing more than 0% phosphorus or other compound containing phosphorus, such as phosphate, except as provided in section 6.
- (B.) No lawn fertilizer shall be applied when the ground is frozen or covered with snow.

(C.) No person shall apply fertilizer to any impervious surface including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer must be immediately contained and either legally applied to turf or placed in an appropriate container.

- Section 6. EXEMPTIONS. The prohibition against the use of fertilizer under section 5. shall not apply to:
- (A.) Newly established turf or lawn areas during their first growing season.
 - (B.) Turf or lawn areas that soil tests, performed within the past three years by a state approved (NMED or NMDA) soil testing laboratory, confirm are below required phosphorus levels for lawns as established by the NMSU Extension Service. The lawn fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.
 - (C.) Agricultural uses, vegetable and flower gardens, or application to trees or shrubs.
 - (D.) Yard waste compost, biosolids (if treated to meet "class A" under 40 CFR 503) or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

- Section 7. SALE OF FERTILIZER CONTAINING PHOSPHORUS.
- (A.) Effective September 1, 2006, no person shall sell or offer for sale any lawn fertilizer within City of Ruidoso Downs that is labeled as containing more than 0% phosphorus, or other compound containing phosphorus, such as phosphate, except such fertilizer may be sold for use as provided in section 6.
 - (B.) Effective September 1, 2006, no person shall display lawn fertilizer containing phosphorus. Signs may be posted advising customers that lawn fertilizer containing phosphorus is available upon request only for uses permitted by sec. 6.
 - (C.) Effective May 1, 2006, a sign containing the regulations set forth in this ordinance and the effects of phosphorus on the Rio Ruidoso's water must be prominently displayed where lawn fertilizers are sold.

- Section 8. ENFORCEMENT. Violations of this ordinance will be enforced by the Environmental Health Section of the Public Health Division, Department of Human Services.

- Section 9. PENALTY. Any person who violates section 5. in the application of fertilizer at his or her residence shall be subject to a forfeiture of up to \$50 per violation. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates section 5, and any person who violates section 7, shall be subject to a forfeiture of up to \$250 for the first violation within

a twelve month period, up to \$350 for the second violation within a twelve month period, and up to \$500 for the third and each subsequent violation within a twelve month period.

Section 10. SEVERABILITY CLAUSE. **If any section, provision or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective or invalid. (Dan, I know you have a**

Section 11. EFFECTIVE DATE. The Stormwater Pollution Prevention-Phosphorus Establishing Regulations For Lawn Fertilizer Application & Sale Ordinance of the City of Ruidoso Downs shall become effective five days after publication as provided by law.

ORDINANCE 2006-02
CITY OF RUIDOSO DOWNS

AN ORDINANCE ENACTING A NEW CHAPTER 11 TITLED "ENVIRONMENTAL PROTECTION" ARTICLE 1 TITLED " PHOSPHORUS DETERGENT RESTRICTION" SECTIONS 11-1-1 THROUGH 11-1-4 OF THE CITY OF RUIDOSO DOWNS CODE OF ORDINANCES

WHEREAS, this ordinance is intended to promote the general health, safety and welfare of the people of Ruidoso Downs; and

NOW THEREFORE, be it ordained by the Governing Body of the City of Ruidoso Downs, County of Lincoln, State of New Mexico, that:

CHAPTER 11
ENVIRONMENTAL PROTECTION
ARTICLE 1
PHOSPHORUS DETERGENT RESTRICTION

- 11-1-1 Definitions
- 11-1-2 Labeling of phosphate content of detergents.
- 11-1-3 Limitation on sale
- 11-1-4 Penalty.

11-1-1 DEFINITIONS.

- (a) "Synthetic detergent" or "detergent" means any cleaning compound which is available for household use, laundry use, other personal uses or industrial use which is composed of organic and inorganic compounds including soaps, water softeners, surface active agents, dispersing agents, foaming agents, buffering agents, builders, fillers, dyes, enzymes and fabric softeners, whether in the form of crystals, powders, flakes, bars, liquids, sprays or any other form.

- (b) "Polyphosphate builder" or "phosphorus" means a water softening and soil suspending agent made from condensed phosphates, including pyrophosphates, tri-phosphates, tripolyphosphates, metaphosphates and glassy phosphates, used as a detergent ingredient, but shall not include "polyphosphate builders" or "phosphorus" which is essential for medical, scientific or special engineering use under such conditions and regulations as may be prescribed, after hearing, by the City Administrator.
- (c) "Recommended use level" means the amount of synthetic detergent or detergent which the manufacturer thereof recommends for use per wash load, at which level such synthetic detergent or detergent will effectively perform its intended function.
- (d) "Machine dishwasher" means equipment manufactured for the purpose of cleaning dishes, glassware and other utensils involved in food preparation, consumption or use, using a combination of water agitation and high temperatures.
- (e) "Dairy equipment", "beverage equipment" and "food processing equipment" means that equipment used in the production of milk and dairy products, foods and beverages, including the processing, preparation or packaging thereof for consumption.
- (f) "Industrial cleaning equipment" means machinery and other tools used in cleaning processes during the course of industrial manufacturing, production and assembly.

11-1-2. LABELING OF PHOSPHATE CONTENT.

No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent, whether in the form of crystals, powders, flakes, bars, liquids, sprays or any other form in the City after September 1, 2006 unless the container, wrapper or other packaging thereof shall be clearly labeled with respect to its polyphosphate builder or phosphorus ingredient content clearly and legibly set forth thereon in terms of percentage of phosphorus by weight, expressed as elemental phosphorus per container, wrapper or other packaging thereof, as well as grams of phosphorus, expressed as elemental phosphorus per recommended use level.

11-1-3. LIMITATION ON SALE OF DETERGENTS.

- (a) No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent containing more than two and one half (2.5) percent of phosphorus by weight, expressed as elemental phosphorus, within the City after September 1, 2006. No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent which requires a recommended use level of such synthetic detergent or detergent which contains more than seven grams of phosphorus by weight expressed as elemental phosphorus, within the City after September 1, 2006. Notwithstanding the foregoing provisions herein, synthetic detergents or detergents manufactured for use in machine dishwashers, dairy equipment, beverage equipment, food processing equipment and industrial cleaning equipment shall not be subject to the limitations herein set forth but are hereby made expressly to the provisions of subsection (b) hereof.

- (b) No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent containing any phosphorus, expressed as elemental phosphorus, including synthetic detergents or detergents manufactured for machine dishwashers, dairy equipment, beverage equipment, food processing equipment and industrial cleaning equipment within the City after September 1, 2006.
- (c) The concentration of phosphorus by weight, expressed as elemental phosphorus in any synthetic detergent or detergents shall be determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.).

11-1-4. PENALTY.

Any person or business found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any provision of this chapter, except when otherwise specifically provided, shall be fined not more than two hundred and fifty dollars (\$250.00) for the first offense, and not more than five hundred dollars (\$500.00) for the second and each subsequent offense, in any one year period. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation or failure to comply is permitted to exist after notification thereof.

Ordinance No. 2006-02 shall become effective five days after publication as provided by law.

PUBLIC INPUT

My name is Danny Chavez and I live in the River Park area, 203 Westview. A few months ago a flood control channel was dug up just over my fence. The channel is fine but they dug up all of this dirt and they piled it up on the residence side all the way from the city yard to Parnell. It is three or four feet from my fence, just a big berm and it is loose dirt full of debris. Everybody here knows we could have a good downpour and if we do, all of that dirt will be on top of my shop or my home. I suggest that it should be packed, should be seeded or plant some trees. They cleaned up that whole side of Parnell and left no trees; it is just bare dirt.

Public Works Director Gens said we are working on this project. We have worked with many of the homeowners in that area. I don't believe you contacted Public Works on this project. I will certainly walk through with you and explain to you what we are doing and what we have left to do. Seeding is a part of the project. Some of the areas we are still cleaning up. We have a contractor working in cooperation with the city. We had to allow the contractor to finish his project and then we can come back in and do the parts of the project that are ours.

Ms. Chavez said I have two complaints. The first complaint I have is on Central and also on Westview. The roads are so bad and so full of holes. I want to know when something is going to be done about that. She showed pictures of her front yard. It used to have beautiful trees around it and now I see the maintenance yard and that is all I can see there.

Mayor Miller said North Central is scheduled real soon as soon as we get a break in the weather. Mr. Gens said right now we are fixing Parnell. We are going to put one culvert at the bottom of Central and one at the intersection of Central and Parnell to carry off the major rainwater. Administrator Waters said the areas were cut up during the water project but they were not compacted very well. The company we were working with has agreed to pay for chip seal to redo the road but it can't be applied until we get warmer nights. As for the fence, we were required to put up a fence to fence off the property because people were complaining they didn't like looking at tractors, etc. Unfortunately, wood ages over time and that is what has happened to that wood. It cost us several thousand dollars to fence it off. It does block the view of the salt piles that we have to have at public works. Certainly if pieces of the fence break off it is the city's job to repair those parts.

Councilor Miller said when we talked about putting this fence up I did suggest fast growing trees and I would still like to see that happen. I agree with you; I lived next to a city yard for twenty years and it was not fun. It was worse than this but I think the city should look into doing something to make it more attractive.

Joe Blaney said the fence that they are talking about we all know it cost a lot of money. The fact of the matter is the fence wasn't put up right to begin with and we all know it. It needs some money for repair. It needs some stronger posts. Dan's guys can only do so much but some stronger posts would help. As far as the ditch goes, the compaction is the main issue here and cleaning up the debris. We have been told that it will be seeded but it would be nice to see some reinforcement there too like they put on Parker. I would definitely encourage everybody to do what Danny asked you. Come look; right behind his house is where the water comes across from the highway to the Baptist church. We walked it today and there is already six inches of silt for almost 100 yards. That is simply from that little dab of snow we got a week ago. I agree, the rain is going to be detrimental unless it is very slow. We need to worry about our infrastructure before we worry about more cars except I agree you need something to drive, Mayor.

Mayor Miller entertained a motion to adjourn.
Motion was made by Councilor Miller and seconded by Councilor Hood to adjourn at 6:48 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer