

MINUTES OF THE CITY COUNCIL
REGULAR MEETING
OF THE CITY OF RUIDOSO DOWNS
MAY 8, 2006

The Council of the City of Ruidoso Downs met in a regular session on May 8, 2006. Mayor Pro-tem Garrett called the meeting to order at 5:30 p.m. and asked D'Ann Dunigan to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Miller	Mayor Pro-tem Garrett
Councilor Hood	Councilor Holman

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

Also present:

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

APPROVAL OF AGENDA

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

APPROVAL OF CONSENT AGENDA

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

APPROVAL OF MINUTES OF APRIL 24, 2006 REGULAR MEETING

Motion was made by Councilor Hood and seconded by Councilor Miller to approve the Minutes of the April 24, 2006 regular meeting. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor Pro-tem Garrett, Aye. Motion carried.

ACCOUNTS PAYABLE

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

UNFINISHED BUSINESS

Mayor Pro-tem Garrett stated next item on the agenda, discussion and consider amending Ordinance No. 2002-11 Chapter 1 Section 1 (C) titled "Compensation" for Public Hearing process.

Councilor Hood asked Attorney Bryant do we have a ruling on this. Attorney Bryant said we don't. The process is if you all are ready to make this kind of change you need to approve it for publication and then we will send it to the Attorney General's office to request an opinion because we are moving from what has historically been by the meeting accounting of the salary. This proposal is to move to a monthly salary. The constitution doesn't say you can't change the way you are paid; it says you can't increase or decrease an elected official's salary during the course of their term. Is this an increase or a decrease? Maybe it is and maybe it isn't; it depends on how you look at it. There are those who would argue that your per meeting pay program violates the constitution because when they look at one year to the next the compensation isn't the same every year. The other side of that argument is it is the same because it is the same amount of money per meeting. Another person would argue just the opposite of that changing it from a per meeting deal to a monthly deal can be either an increase or decrease depending on how many meetings you hold a year in the term you make that change. In any event, if the Council desire is to go to this, if you pass the ordinance and it is deemed by the Attorney General to be a constitutionally impermissible change in salary if it goes into effect right away, you simply wait as we go to the next election cycle. Part of this council would be elected and go on that pay program and two years later there would be another election cycle and the rest of the council would go on that pay program then everyone would be back the same again. We are talking about process and effective dates. I have gathered various opinions in the two or three cases that discuss this subject. As I advised you last time, I am the proud owner of decisions squarely against me on this change of pay issue on an effort that was made by the counties to keep everybody's pay consistent when they went to districted staggered terms. I can't predict how this will come out but if this is the language that is the will of the Council, we will get the Attorney General's opinion and we will act accordingly in terms of how we establish effective dates.

Councilor Hood moved to amend Ordinance No. 2002-11 Chapter 1 Section 1 (C) titled "Compensation" for publication. Seconded by Councilor Miller.

Clerk Virden asked is the proposed ordinance going to be as written. Attorney Bryant said if we have a motion and a second we can tinker with it in discussion.

Councilor Miller said I think we have to put in there that we have to be present to receive it like always. The Council further discussed the ordinance.

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

OTHER BUSINESS

Mayor Pro-tem Garrett stated next item on the agenda, recognition of April Employee of the Month, Museum staff and personnel, Janis Rowe.

Museum Director Smith said it is a real pleasure to introduce the Employee of the Month from the museum staff. It is not often that I can bring you visual evidence of work that our staff does but I do today. The person we have chosen to honor is someone you all know. She has been with the museum now for almost five years and it is Janis Rowe who works as our membership and marketing person. Mr. Smith passed out a couple of new brochures for the museum prepared by Ms. Row. Just recently Janis lead the efforts to research and put together a program for creating billboard signage around the State of New Mexico. She did a fantastic job. Janis Rowe said thank you all very much. It is nice to be appreciated.

Museum Director Smith pointed out that one of the new brochures was for events every Saturday at the museum starting the 1st of June through August.

NEW BUSINESS

Motion was made by Councilor Hood and seconded by Councilor Miller to approve Standard Form of Agreement between owner and engineer for Professional Services Contract Amendment No. 3. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor Pro-tem Garrett, Aye. Motion carried.

Motion was made by Councilor Hood and seconded by Councilor Miller to approve unusable or obsolete City property of the Museum Department. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor Pro-tem Garrett, Aye. Motion carried.

Motion was made by Councilor Hood and seconded by Councilor Miller to approve Ruidoso Downs Fire Department By-Laws. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor Pro-tem Garrett, Aye. Motion carried.

Mayor Pro-tem Garrett stated next item on the agenda, consider rescheduling Regular City Council Meeting of Monday, May 22, 2006 to Tuesday, May 30, 2006.

Councilor Miller moved to reschedule the Council Meeting to Tuesday, May 30, 2006. Seconded By Councilor Holman. Roll call votes: Councilor Hood, Aye;

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

PUBLIC INPUT

Councilor Holman said I would like to commend Steve Dunigan for advising us on Colorado that the water would be turned off on a certain date at a certain time. That is really a nice thing to do.

Jane Haizlip said I have one question. When is the house on Nevada going to be complete. It seems to be at a standstill and a very big eyesore. Attorney Bryant said I will leave instructions with my staff to get a status report.

Councilor Miller said I would just like to thank our police department and our fire department and our rescue guys. When I needed them they were there quick when I needed them on the 29th. I really appreciate you, Chief Denny, and your whole staff. Thanks so much for all the thoughts and prayers and kindness.

EXECUTIVE SESSION

Mayor Pro-tem Garrett entertained a motion 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.

Motion was made by Councilor Hood 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. Seconded by Councilor Miller. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor Pro-tem Garrett, Aye. Motion carried.

Mayor Pro-tem Garrett closed the regular meeting at 5:56 p.m. and invited City Attorney Dan Bryant, City Administrator John Waters, and City Clerk Carol Virden to attend the Executive Session and asked Chief Denny to standby if they had any questions.

Motion was made by Councilor Miller and seconded by Councilor Hood to go back into regular session. Mayor Pro-tem Garrett called the regular meeting back to order at 7:02 p.m. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor Pro-tem Garrett, Aye. Motion carried.

Councilor Miller attested to the fact 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 no action was taken.

Councilor Miller moved to approve the draft settlement agreement language for circulation for signatures on Terlecky versus the City of Ruidoso Downs. Seconded

by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor Pro-tem Garrett, Aye. Motion carried.

Mayor Pro-tem Garrett entertained a motion to adjourn. Motion was made by Councilor Miller and seconded by Councilor Holman to adjourn at 7:03 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer