

MINUTES OF THE CITY COUNCIL
RESCHEDULED MEETING
OF THE CITY OF RUIDOSO DOWNS
MAY 30, 2006

The Council of the City of Ruidoso Downs met in a rescheduled session on May 30, 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 Hood	Councilor Miller
Councilor Holman	Councilor Garrett

Administrator Waters informed Mayor Miller there was a quorum.

Also present:

Dan Bryant, City Attorney
John P. Waters, City Administrator
Robert Denny, Department of Public Safety Director
Jay Smith, Museum Director
Steve Dunigan, Public Works Acting Supervisor
Annette Wallace, Secretary

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES OF MAY 8, 2006 REGULAR MEETING

Motion was made by Councilor Hood and seconded by Councilor Garrett to approve the Minutes of the May 8, 2006 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 Hood and seconded by Councilor Garrett 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 Hood 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 Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

UNFINISHED BUSINESS

None

PUBLIC HEARINGS

Mayor Miller stated next item on the agenda, Public Hearings and asked Attorney Bryant to comment. Attorney Bryant said we are here to follow up public hearings on the consideration of two ordinances. They are Ordinance No. 2006-01 and Ordinance No. 2006-02.

ORDINANCE NO. 2006-01 IS A STORMWATER POLLUTION PREVENTION PROGRAM- PHOSPHORUS ESTABLISHING REGULATIONS FOR LAWN FERTILIZER, APPLICATION & SALE. ORDINANCE NO. 2006-02 IS AN ORDINANCE ENACTING A NEW CHAPTER 11 TITLED "ENVIRONMENTAL PROTECTION" ARTICLE 1 TITLED " PHOSPHORUS DETERGENT RESTRICTION" SECTIONS 11-1-1 THROUGH 11-1-4.

The ordinances in draft form have been published and available for public reading and inspection for more than a month. We have held at least one prior public hearing and we had some input from the industry concerning certain aspects of the ordinance as it affected commercial dishwashing. In consequence of some independent investigation that we did with the kind help of our Planning and Zoning chairman, Mr. Paul Van Gulick, Mr. Waters has drafted and we have looked at a new subparagraph (b) under 11-1-3 that carves out a different treatment for commercial machine dishwashers in the restaurant and industrial cleaning businesses that are located in the community. That provision requires a certification and permitting process and requires that each year the machines are in use in the community will be tested. The amount of detergent needed will be certified by the independent inspector as to what the combination is and how much phosphorus will be contained in those dishwashing methods. The reason for that amendment was to allow this ordinance to work better with the State of New Mexico

Environment Department regulations in terms of their cleanliness requirements they impose on commercial industries when they license them through the Department of Health.

There is one more item in Section 11-1-3 (a). In the fourth from the last line there was a term omitted in the draft we put out this afternoon. That line should read "manufactured toward use in commercial machine dishwashers". Please note that correction.

Mayor Miller stated I hereby open the Public Hearing for comments on Ordinance No. 2006-01 and will be accepted in the following order, interested persons must approach the podium, one at a time, state their name and present their testimony. A limit of three minutes will be allowed per person.

Are there any persons here to speak in opposition of the action? There were no comments.

Mayor Miller asked is there anyone who wants to speak in support of the action.

Paul Van Gulick said I am citizen of Ruidoso Downs. I am here to speak in support of this. I appreciate very much to the extent that we pass the ordinances that we need to protect ourselves from serious difficulties with the EPA. To the extent that we can educate the people of Ruidoso Downs, I think this is exactly in line with what we need to be doing. I just wanted to speak in favor of this particular ordinance and say thank you for this extra step in what appears to be an education program.

Mayor Miller closed the hearing on Ordinance No. 2006-01 and asked for a motion to adopt.

Councilor Miller moved to approve Ordinance No. 2006-01, Stormwater pollution prevention program - phosphorus establishing regulations for lawn fertilizer, application and sale. 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, Ordinance No. 2006-02, 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. I hereby open the Public Hearing for comments on Ordinance No. 2006-01 and will be accepted in the following order, interested persons must approach the podium, one at a time, state their name and present their testimony. A limit of three minutes will be allowed per person.

Are there any persons here to speak in opposition of the action

Dennis Griesing said I am Vice-president of Government Affairs for the Soap and Detergent Association. The industry is appreciative of the exchange of information that is going on. I believe you have done the right thing with respect to commercial dishwashers giving the importance of the hospitality industry to the economy of this area. The standing concerns are with respect to 11-1-3 (a) and we need clarification as to what the intent is. In the first instance the ordinance would provide for an automatic dishwashing detergent to contain 2.5% phosphorus by weight. In the second sentence, however, it would also provide the use of any product so long as it used no more than 7 grams of phosphorus per wash load. This sets up a conundrum; there is a contradiction here. We have products that are 8.7% phosphorus by weight. These are the tablets and gel pacs that are highly concentrated new products. These would be prohibited under the first provision because of the 8.7% but they would be permitted under the second because a tablet only uses 1.7 grams per wash load. We are asking which standard prevails and how can we resolve this.

Administrator Waters said I think the important provision is the first one versus the second one. The percentage by weight seems to be the thing that is more noticeable on packaging. In researching I think it is going to be easier if we require the percentage by weight per dosage that needs to be something clearly labeled for consumers to make sure they understand that whatever they use meets the 2.5% phosphorus by weight as opposed to having grams of material by weight. If there is a choice between the two, I would recommend that we go with the 2.5% language with the caveat that the 1.7% concentration is somewhere in the labeling for the products Mr. Griesing mentioned.

Mr. Griesing said the real measure of phosphorus used is the density measure; it is the grams per tablespoon. We are required to calculate the percentages by laws in over fifteen states. That has always been very difficult to explain. You will find both numbers on the package, the phosphorus by weight and the percentage and the grams per tablespoon.

Mayor Miller asked if there was anyone to speak in support of this ordinance.

Paul Van Gulick said I am a citizen of Ruidoso Downs. On this one too I just wanted to commend everyone for the work they have done on it. This is tough issue and it just needs to be done. In our town I had the opportunity to visit every one of the restaurants and see what type of dishwasher is being used and tried to put together as much information together as I could. Basically there is no choice you get for commercial. I think this ordinance addresses the problem in a very sensitive way assuming we have something in the other paragraph that works for home dishwashing. Certainly there is a lot more leeway. There are products out there that are phosphate free. We have been using it in our household and I know some others

here have too. If there needs to be minor changes so be it. Again, I want to commend you and I certainly support this ordinance.

Attorney Bryant said Mr. Waters originally as you drafted this with the requirement of 11-1-3(a) expressed in the alternative either 2.5% by weight or 7 grams of phosphorus by weight perhaps I am leading to an assumption that is not warranted. I assume that was intended to catch an alternative kind of program as opposed to one that is mutually exclusive. Is that right?

Administrator Waters said that was what was originally intended. However, I don't know if that is feasible or not under what we have.

Attorney Bryant asked Mr. Griesing did you find by going to the tablets or gel pacs in the concentrated form actually reduced the volume of phosphate that the consumer was using on an annual basis.

Mr. Griesing said that is a fact. Every other jurisdiction is regulated by 8.7%. That is the ceiling that everything is formulated. Yes, the amount of phosphorus as grams per dose was reduced.

After further discussion, Attorney Bryant redrafted paragraph 11-1-3(a) as follows:

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. Additionally, 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 (7) grams of phosphorus by weight expressed as elemental phosphorus, within the City after September 1, 2006.

Regarding concentrated gel pacs and or tablets no person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent containing more than eight and seven tenths (8.7%) percent or two (2) grams of phosphorus by weight, expressed as elemental phosphorus, with the City after September 1, 2006. Notwithstanding the foregoing provisions herein, synthetic detergents or detergents manufactured for use in commercial 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.

Mayor Miller closed the Public Hearing and entertained a motion to adopt.

Councilor Garrett moved to adopt Ordinance No. 2006-02 with the changes. Seconded by Councilor Miller. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

OTHER BUSINESS

None

NEW BUSINESS

Motion was made by Councilor Hood and seconded by Councilor Garrett to approve RFP No. 06-03 Audit Services for 2005-2006 to Ronnie Hemphill, PA. 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 City of Ruidoso Downs preliminary budget for fiscal year 2006-2007. Councilor Hood moved to approve the preliminary budget for fiscal year 2006-2007. 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, DPS position Communication Detention Officer, Joe Kenmore. Cyndi Miller, CDO Supervisor, said Mr. Kenmore comes with a high recommendation and we would like to replace one of our employs that decided to retire, Betty Bennett. We would appreciate it if you would approve this hire.

Councilor Garrett moved to approve Personnel Recommendation, Joe Kenmore for DPS Position 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, Public Works Director, Thomas Stewart. Administrator Waters said Thomas Stewart who is here before you today comes to us from Marble Falls via Baghdad, Iraq. He was there helping the citizens of Iraq with their public works utilities, primarily with their water/wastewater utilities. He has some very interesting war stories to tell. He had some close encounters with rocket-powered grenades in his Hummer that convinced him to come back to the USA. He did act as an ambassador for our country and try to help them out. He comes highly recommended. He is certified in the State of Texas and the State of Arizona as a water/wastewater operator. He also has experience as a utilities director for a city about the size of Ruidoso. We have checked the references and he certainly does come highly recommended. He worked at the Texas Water Utilities Association as a training coordinator. He has been a plant supervisor and a utilities director so he does have a lot of experience. We were fortunate to get three really good qualified candidates this time for the public works director position. Mr. Stewart was one of those three and he took the time to come up here and tour the city, tour the department, meet some of our employees, and look at our facilities. He liked it here and I am recommending to the Council to appoint him as the Public Works Director.

Councilor Hood moved to approve Personnel Recommendation, Thomas Stewart as Public Works Director. Seconded by Councilor Holman.

Councilor Hood said I would like to recognize Steve Dunigan. I think he has done an outstanding job in the interim.

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, gift shop manager position, promotion of Celina Telles.

Museum Director Jay Smith said Celina could not be with us this evening. She is extraordinarily qualified for the position and I heartily recommend her promotion to that position. I think she will do great things for the department. I personally will miss her as administrative secretary. She has done a remarkable job for us and me specifically. I have a theory when you surround yourself with talented people good things happen and I think Celina will do a great job for us in the gift shop.

Councilor Miller moved to approve Celina Telles as gift shop manager of the museum. 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, discussion and possible consideration to ask staff to publish an ordinance addressing code enforcement violation.

Administrator Waters said this item was brought up for discussion and it was hoped that we would have at least a skeleton ordinance together to look at two items. Councilor Holman asked for one item he brought forward to deal with mandatory sentence requirements after a certain time period for code enforcement violations. The second one was for individuals with property owned in Ruidoso Downs to be responsible for not only their yard but their yard out to the road so the town can be cleaned up. Part of the problem we have, and this has been mentioned before not only recently surrounding the election but also in the Master Plan, a lot people take care of things right around their house but leave this greenbelt of wilderness grass that is fifteen inches high between their yard and the road and that leaves something that is not esthetically pleasing. If we can continue to clean up along side of the road and have everyone mow out to the road it will improve the look of the town and keep trash from piling up alongside of the road. I have asked for three ordinances from three different municipalities surrounding us and I have not received a single one yet. When I do get one I am going to circulate it amongst the council. At that time I would like to ask that any request for us to publish to be held until you have a chance to review those ordinances and put together something you feel is more for Ruidoso Downs. I have also mentioned it to the city attorney and see if he can find any county ordinances that require something similar.

Councilor Holman said I feel that what we are doing now is not working. This would be a good start and give us time to look at some things and see if that is what we want.

Councilor Miller asked how far on the side of the road is the City responsible for. I thought the City was responsible for the sides of the road. Administrator Waters said right now it is a no mans land. Apparently there is not an ordinance that requires one to cleanup. We don't really have a crew that mows the first ten or fifteen feet of everybody's yard.

Councilor Miller said we used to weed eat the sides of the road and the ditches with extra help in the summer to do that in the past. Administrator Waters said the size of the city has grown significantly and so has the development. It would take an entire crew to go through regularly especially when it starts raining. Most towns don't do that. In fact I can't think of single New Mexico town that does maintain the right-of-way in people's yards throughout the neighborhoods. The last few times we advertised for summer help it is incredibly hard to find them. We have advertised for a period of over a month and a half and have not picked up hardly anybody and the ones we hire quit after a few days. It is very difficult to keep that type of labor working here on a regular basis. In most towns most people are required to maintain everything out to the street or even the middle of the street in some towns. I think out to the edge of the street in our town would solve the problem.

Councilor Garrett said when we went to the code enforcement meeting it was the code enforcement, solid waste and the fire department. Cleaning up of the city was the most important thing to the people at that meeting. We really need to move forward and see how we can address it to help that happen.

Councilor Holman said we think the timing on this is great. We have an officer now to help with the code enforcement which should make a big impact. The town has made progress in getting cleaned up but I think it is just not sufficient. We are not moving in that direction fast enough in the neighborhoods. I have seen code enforcement that apparently visits areas, it gets cleaned up and then they go right back.

Councilor Hood said that was one of the big issues when Dean and I were running for office was code enforcement. The night we had the forum almost every question asked of us was what was the city going to do on code enforcement issues. I think this would be a good step forward for us to look at something and see which way we can go.

Councilor Miller said I feel we need to keep picking up branches for people and any way the city can possibly help.

Councilor Holman said on May 19, 2006 there was an article in the Ruidoso News under "Our Opinion" that I felt like was excellent. If people would refer to that it pretty well tells how I feel. It had to do with trash sites mentioning that the newspaper might do a campaign and take pictures of certain areas. Perhaps next meeting we can get the council a copy and talk about it some more.

Paul Van Gulick said one portion of this particular issue about the idea of whether people should maintain their property out to the street or out to their property line, I can tell you speaking as a surveyor in this town, it would be problematic to get two surveyors to agree on what their property line is. Imagine the homeowner and the code enforcement officer trying to agree on where the property line is and what to maintain but we can all agree on where the street is. It has been my experience in other towns that in the wintertime everyone shovels the walk in front of their house and in the summertime everyone mows whatever grass they have to the street. It seems to work and there is just no controversy over where the road is.

Robert Gustafson said I reside at 129 West Drive. I probably cleaned up one of the worst lots in this town about two years ago. I have been trying to get the neighborhood cleaned up with the help of the code enforcer. You get to a point that you can only do so much. Now he is saying he is needing some help from city council or whatever to back him up so he can get things done. Apparently he is having a problem and I would like to know just what the problem really is. Bill has tried; there is no doubt about it. If we have codes here we need to enforce them.

Administrator Waters said it is important to remember that when we site somebody they have to go through the justice system. While we have two branches of government represented here today, your executive branch and your legislative branch. They are afforded the judicial branch and they do go through that as well. Sometimes they are given additional time to work on it depending on what they agree with the municipal court. In some cases they agree with compliance schedules and in some cases they skip town. Then we have to start with the next person and start the process all over when someone buys it and they don't clean it up. We feel it is important as well. By Councilor Holman requesting more stringent rules regarding code enforcement and regarding penalties, I think that shows an interest by the city council that they recognize there is a problem and there may be a way that we can encourage more compliance. The city council has voted to condemn properties in the past. If the Council decides to do that, they have to weigh the other side of it. That is your tax dollars paying for someone else's problem that you will never recover until that property is sold.

PUBLIC INPUT

Joe Blaney said first off, I would like to say I am very sorry for the retirement of Betty Bennett, a woman and officer I'm proud to call a friend and a wonderful example of how an officer of the police department should be not only willing to

communicate with the average citizen but also eager to do so. Thank you, Betty, for all of your years of service.

Now onto disappointing issues over the last year. I've sat and watched a very sad situation build in Ruidoso Downs, a fine officer forced out by what I've decided is a very self-indulged officer pushing his influence to the fullest extent. In the past few months, I must say his arrogance has shamed Ruidoso Downs; however, his support in the department should be recognized. I've never heard of a group of people who have gotten no complaints with their boss. Our police department thinks they deserve nothing but the best: best cars, best equipment, best facilities but are only willing to give one-half in return. The traffic light, in combination with our police department, was designed to slow our speeding problem - not! Our current ticket ratio is around four a day, of that two are speeding. This is a shameful amount when we still have traffic which is traveling well in excess of our posted speeds. However, I've strayed from what I came here to say. In regards to the police department survey, that is the center of attention of late, I have one thing to say, it's BS. Thinking this survey to be bogus, I myself chose to put it to the test by hand delivering four surveys and mailing six, which by the way, none have turned up in the final results. Had our chief put as much time into work as he has been trying to prove his value with this bogus ploy, he would not be in the local news weekly. At this time, I respectfully request the chief either do his job without insubordination or get out. You do have a boss; what happened to serve and protect? Serve your town by doing your job. Protect your town by doing your job. The people of this town pay your salary and, by God, that means we are your boss. On a lesser note, it might be nice if your officers would turn off the AC, roll down a window, turn off the music and pay attention to what is going on around them. The department may be happy with itself, but the citizens of Ruidoso Downs are not. Communication between officers and the public is at an all time low. Thank you.

Robert Gustafson of 129 West Drive said when I called the police department they were there within minutes. The kids had already left but I was out there with them and the whole department was trying to get these kids doing the graffiti. They were smoking in an old house that should be condemned to start with but I have to commend them. They did a fantastic job in getting there and getting the kids caught. That is my opinion on the subject.

Ralph Romero said I want to address the Council and the people at my back. I don't live in the municipality but I live pretty close. I have sons and daughters and relatives that work in the municipality for Wal-Mart. I am going to base my little talk here tonight not only as a citizen of this county but someone who travels these highways any time of the week, any time of the month. I am also basing my little talk on being an ex-professional police officer. Many months ago I had the opportunity to meet the gentleman that is now your police chief. I also visited with the Mayor and my suggestion when the city was looking for a new chief of police. I stuck my neck out. I am not a very bad judge of character. I met Chief Denny over a

coke or cups of coffee many times. I observed the man and made up my mind to why his qualities work. Today I think I have proved my judge of character of Chief Denny are over and beyond what Ruidoso Downs has ever had as a chief of police in the years I have been in this county all my life. Chief Denny has brought this department to where it is today not because he wants to be a cop because he is qualified to be a cop or police officer. The administrative positions of any police officer now days is astronomical. The only time we the public like a police officer is when he is not doing his job. When he is doing his job he becomes a dirty rat. "Why did you pull me over?" Most of us today are in a hurry to go somewhere and we are always on the defensive. I have observed this police department, Mr. Mayor and Councilors for several months now since Chief Denny took over. I have had the misfortune of having to use their services on an incident that happened. They worked it in a very professional manner, which I can't say was being done in the past. I don't care who knows it or who is going to tell what I am saying here tonight because I mean exactly what I am saying. I have been a police officer for many, many years and I supervised officers. I fired a lot of officers mostly because they didn't fit with what I felt the position called for. Again, Chief Denny to me has taken something that if it had been offered to me, I can tell you what I would have said, "Un huh, I don't want it." Chief, on behalf of my family, myself and a lot of the people I talk to every day I want to compliment you. Thank you.

Betty Bennett said number one, thank you, I have worked for you awhile and I loved it. You were good to me, good to my family and I loved the job. It takes a little bit more to being a policeman than walking in and saying I always wanted to be a cop and they hand you a gun and badge, presto change-o, you are a cop. Now the training and I am talking about the first rookie that comes in the door to be a police officer the training is unbelievable. I will be seventy in June and I am still taking training; you would have thought I would have figured it out by now. But, no that is wonderful. Our department here in Ruidoso Downs backs it and sees that. We get trained. Chief Denny here, worked with him. God, it's a pleasure to get up and say I am ready to go to work today because you are not going to get yelled at, put down or stabbed. This is a real danger in my world. Chief Denny, it won't be too long before we can refer to him as Doctor Chief Denny. That would be a feather in anybody's cap. Qualified all over the country to teach law enforcement. That ain't bad to have. To the people who are working with us here and you all by and large have worked with us here and we appreciate it very much stop this little niggling stuff. I was stopped by a lady that I have known for years and she brings up to me "honey, bless your heart, you work for the Downs". I said "damn straight and proud of it". She says well, you have a problem. I said well find me some place that doesn't have a problem and they are lying to me. She said your officers lie to you. I said excuse me. She said you know when they call and you ask their location they lie to you. I smiled at her sweetly and said I know whose door that goes through I will discuss it with him. Our officers are professional. We are putting together a department that has young, beginning officers all the way up to extremely well trained officers. Officer Denny has drawn us some good responsible people I am

glad to say. It takes more to being a cop than "I have never seen a cop in my neighborhood". Well, maybe you weren't looking at the right time. This place is patrolled closely. Everybody is invited, I can invite for you, anybody up here that wants to come out and ride. Come out and ride with an officer to see what the heck a police officer does between four in the evening and six in the morning, not in the daytime. Find out what they do then you can complain. Until that time, don't talk to me. I am old, I carry a gun and I get vicious. Thank you all.

Tawny Denny-Whitecalf said I am the wife of your Chief of Police. I swore I wasn't going to do this but after listening to the first gentleman that came up and spoke I couldn't resist. I understand those surveys were supposed to be confidential. I now understand those surveys have been disseminated to six people. Obviously, one of you six people which was a confidential survey made the survey privy to this gentleman back here and I find that damn interesting when the survey was initiated by the police department to see how the police department could get better. Now, this man specifically pointed out specific surveys he says he did not see. That tells this audience a confidential, unfinished project has been shown to the public and that is appalling. The community knew and it said on those surveys this was confidential. I have been privy to conversations out at Wal-Mart walking about and I do know people here in the community and I have heard people are amazed that these surveys have been handed out and if they knew that this was not going to be confidential they would be up in arms. Now, this gentleman told your Council, it is recorded, that he has seen these surveys because he knows for a fact that six of them are not in there. It is very interesting how he knows that. Anyway, I told my husband I would not come up here but when he did that I couldn't resist. So someone on the Council has been sharing confidential information. I would like to ask you individually but may be that would be an embarrassing position for someone. Thank you very much.

Terry Garrett said my survey was not in this group. There are several surveys that people turned in their forms and they were not in this survey. I have a problem with the survey about the police department being turned over to the police department. It is like letting the fox into the hen house.

Arden Eckersley said I filled out one of those surveys. I filled it out specifically so he could improve his department not for any of you. He is the one running the show. For all of you to get involved at this time I think is wrong. I think he is doing a fine job. Every time I have called him or had any dealings with him; I had a problem over there with ATV's running up the road and got him over there right away and got it stopped. Thank you.

Councilor Miller said I, for one, believe that this survey was for our police department. I don't want to see it. It is none of my business. I think Robert Denny did it to do a better job for his department, to find out what the citizens think about his department, what the crimes are and in what areas and I think that is his

business. That is not any of our business unless something happens that he comes to us and makes it our business that he needs money to patrol this area more or he needs this or that. But, those were confidential. I don't want to look at them. I took mine and threw them in the garbage to make sure nobody else got to look at them. I picked them up here at City Hall. My copies were put in the garbage so no one in my family or anybody could look at them. That is your business, Robert, and I think you will make a fine report to us sometime in June or July when you get it figured out as to what you were actually looking for. You are doing a wonderful job and I will go on the record and say I finally feel safe in Ruidoso Downs and that our police department is the best we ever had. We have gotten rid of a lot of bad cops which I thank you, Robert. I am a reserve officer of Ruidoso Downs so when you are talking bad about our department you are talking bad about me too.

Jane Haizlip said I am Sue Garrett's mother. Judy, I don't feel that any one on the council should be in your position. I don't think you should be a reserve officer. I think that is the biggest mistake that was ever made. I'm sorry and Robert, I think you are way out of line when you went to the paper on city time with a city unit. You are out of line. I am speaking perfectly truthful and I am just not happy. Thank you. You disturbed the whole family.

Councilor Miller said I would like to know why I shouldn't volunteer my time. That is ridiculous.

Attorney Bryant said as I introduce these remarks I hate to be a lawyer that treads into what is an incredibly emotional discussion amongst you all tonight, but I have to correct I think a fundamental misunderstanding about local government in the State of New Mexico. We are public entities. Papers stacked up and down in these offices 98 percent of it is public documents. When a citizen walks into a public entity and says I believe there is document "X" and if it is here I want a copy of it, the law in New Mexico says though shall produce it right then immediately upon request when the request is verbal. If there is some reason why it can't be produced immediately, it's voluminous and it has to be copied or it's somewhere else, you have three days to produce the document. If you can't produce it in three days, at the end of three days you have to issue a letter that says I couldn't get it to you in three days because of "x,y,z" and it will be ready for you on "x" date and that date can't be more than thirty days from the third day. There is no choice; there is no option. Ms. Whitecalf, although your remarks were impassioned, there is no such thing as a confidential city document with very few exceptions. An arrest record, information report or an unfiled criminal case is a confidential document. The lawyer's advice and his opinions expressed to his client are confidential documents. When Chief Denny asked for the survey it became a public document. How can it not be a public document when it was mailed to the public. The confidentiality that you speak of is not confidentiality at all. It's anonymity. You didn't have to sign it and say my name is Betty Bennett and this is what I think and that anonymity is the thing that allows people to express themselves freely when they respond to a survey

such as this. Now, there is a disagreement between my police chief and my city management and the city council over the timing of when the city gets to look at this but the bottom line is none of your councilors surrendered their citizenship when you elected them. In fact, their citizenship was enhanced with the responsibility that they took that is defined in the oath that they swore when they raised their right hand swore to uphold the law and the constitution of the State of New Mexico including the public records law. In my opinion, this is a silly dispute. Chief, there was a public record and should have been turned over the first time any member the public asked for it without question. I know you had designs and plans and analysis that you needed to do but somebody asked you for it; it was a public record. The ado about the subject is a mystery to me. I don't understand why this is turning into such a big deal. It was survey, it was mailed to the public, the public responded, any member of the public is entitled to pick them up and to read them. If a member of the public picks them up and reads them and finds that his survey is not in there, he certainly has the right to say why. I would start with the mail personally. I, too, would want to know why was not my survey in the collection. This is a tempest in a teapot. It is much ado about nothing. These are very simple, very open public records. Robert, analyze the hell out of them. Study them, understand them, report to this council what your findings are but why be mysterious about whether they are public records or not.

Chief Denny said I was never being mysterious about it but you accuse me of not keeping all of the documents turned in to me is just ridiculous because, for one, I didn't handle them. Attorney Bryant said I told you my question about that is the first place I would go is the post office. Chief Denny said I understand that but obviously it comes down to my integrity and whether or not I would keep surveys or whether I wouldn't keep surveys if they were positive or negative. It doesn't matter to me if they are positive or negative like I have been saying from the beginning but it eludes to the fact that some are disappearing because they have negative comments on them is essentially a question of my integrity and I don't appreciate that because I have no reason. Attorney Bryant said you need to discuss that with the people that are making that illusion. I am certainly not making that illusion. I am simply pointing out like I did on the phone last week before this blew up, it is simple, it is easy, they are public records turn them over. Chief Denny said I did turn them over.

Councilor Miller said this is a costly thing at a hundred pieces of paper. I think the public is supposed to pay \$0.25 a piece. It could get very costly if we distributed one hundred pieces of paper to everybody who wanted it. If you received them you have to pay \$0.25 a piece. As a citizen if you request them you pay \$0.25 a piece.

John Sims said I have been a professional police officer out of Los Angeles for thirty years. I know Robert Denny. He is the best you have ever had. Don't make his job more difficult. Comparatively speaking, the chief that you had before him can't even tie Robert Denny's shoes. He didn't know what he was doing; he didn't know

the law. Mayor Miller said the man is not here to defend himself and this is getting way out of proportion here. Mr. Sims said I won't mention him any more. Robert Denny is a fine chief; you couldn't do better. He made a survey to try and find out how he can improve his department. But what we have to look at is who asked for it and had the whole family standing up here criticizing the report. That's is not fair.

Councilor Garrett said I asked for them. They are public records. I came and took that problem to John Waters when I was refused those documents and to Dan Bryant. I wiped my hands clean of that situation. I still wipe my hands clean of that situation. That is something you are going to have to deal with. That is a public document. That document belongs to the public. I in no way plan to do anything with those except to have a chance to read them in advance of your giving us a report so that I would be able to read them so when you gave us a report I could say gee, Robert, that is a good idea. Obviously this has gotten so far out of proportion and I did not appreciate the trip to the newspaper. I thought before you could of at least spoken to me.

Mayor Miller declared Public Input closed.

EXECUTIVE SESSION

Mayor Miller 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, and Real Property and Water Rights pursuant to Section 10-15-1 Subparagraph (H)8.

Councilor Hood moved 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 Section 10-15-1 Subparagraph (H)8. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller closed the regular meeting at 7:11 p.m. and invited City Attorney Dan Bryant and City Administrator John Waters to attend the Executive Session and called for a five minute recess to clear the council chambers.

Motion was made by Councilor Garrett and seconded by Councilor Miller to go back into regular session. Mayor Miller called the regular meeting back to order at 7:47 p.m. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

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

Mayor Miller entertained a motion to adjourn.
Motion was made by Councilor Garrett and seconded by Councilor Hood to adjourn
at 7:47 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer