

MINUTES OF THE CITY COUNCIL
REGULAR MEETING
OF THE CITY OF RUIDOSO DOWNS
JULY 10, 2006

The Council of the City of Ruidoso Downs met in a regular session on July 10, 2006. Mayor Miller called the meeting to order at 5:30 p.m. and asked Rosie Hood to lead the Pledge of Allegiance. Upon roll call, the following were present:

Councilor Hood Councilor Garrett
Councilor Holman

Councilor Miller was absent but 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
Tom Stewart, Public Works Director
Jay Smith, Museum Director
Richard Schwalm, Department of Public Safety

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES OF JUNE 26, 2006 REGULAR MEETING

Motion was made by Councilor Hood and seconded by Councilor Holman to approve the Minutes of the June 26, 2006 Regular meeting. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF JUNE 30, 2006 SPECIAL MEETING

Motion was made by Councilor Hood and seconded by Councilor Holman to approve the Minutes of the June 30, 2006 Special meeting. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

ACCOUNTS PAYABLE

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

UNFINISHED BUSINESS

Attorney Bryant said regarding the house on Nevada, at the last meeting I provided you with an update. The property owners had agreed to send a letter to the City advising us that they were wrapping up the other project they were on and they were ready to start. In addition to that he had gone by the house and looked at the outside of it and was a little embarrassed at the conditions he found and was going to get some work done immediately. It was faxed to me from Mr. Waters on Thursday of last week and the letter confirmed all of those facts. They should go to work rehabbing the interior of the building starting about August 1st.

PUBLIC HEARINGS

Mayor Miller stated next item on the agenda, Public Hearing for Ordinance No. 2006-03. An Ordinance amending Chapter 4 Departments Article 7 Health and Sanitation Section 16, Titled; "Monthly Rates" of the City of Ruidoso Downs Code of Ordinances.

Mayor Miller stated I hereby open the Public Hearing for comments and will be accepted in the following order, interested persons will 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 was no one to speak in opposition of the ordinance.

Are there any persons here to speak in support of the action? There was no one to speak in support of the ordinance.

Mayor Miller entertained a motion to approve. Councilor Garrett moved to adopt, approve and pass Ordinance No. 2006-03. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, Public Hearing for Ordinance No. 2006-04. An Ordinance enacting the change of ownership of Cable Television System from Interlink Communications Partners, LLP to Orange Broadband

Operating Company, LLC ("Orange Broadband") approving the franchise agreement and repealing any and all prior Ordinances, Resolutions or actions regarding the provisions of Cable Television Service to the City of Ruidoso Downs.

Mayor Miller stated I hereby open the Public Hearing for comments and will be accepted in the following order, interested persons will 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 was no opposition for the ordinance.

Are there any persons here to speak in support of the action? There was no support for the ordinance.

Attorney Bryant explained the process of this ordinance saying it would become effective the date of the closing between these two entities.

Mayor Miller entertained a motion to approve. Councilor Garrett moved to adopt, approve and pass Ordinance No. 2006-04. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

OTHER BUSINESS

Mayor Miller stated next item on the agenda, recognition of June 2006 Employee of the Month, Communication Detention Officer, Dawn Hightower. Officer Schwalm said unfortunately Dawn is manning the dispatch center so she can't be here. I recommend her because she really does an excellent job and is a very valuable employee. She does so much for us with the NCIC matters. She is basically Cyndi Miller's right hand person to help out wherever she is needed.

Councilor Garrett said I would like to see P&Z make some of the decisions and we be the appeals Board. It seems like we hear everything. If someone wants a variance that P&Z make some of those decisions. I do want to look at zoning changes.

Administrator Waters said the way the ordinance is currently written I think it has to be done the way we have been doing it. However, we could rewrite the ordinance to make the Council the Appeals Board.

Attorney Bryant said this Board certainly has the discretion to set its rules pursuant to that ordinance. We can write language into the ordinance that bifurcates responsibilities and give the P&Z approval up to a certain level and then require the rest of it to come to you. Then, put in an appeal process on those other items. We can show you some options and perhaps put that on your agenda for a future date.

Administrator Waters said Tom Stewart has an update on our water system. Public Works Director Stewart said this is an update on the new well. Of course, the Bureau of Reclamation is funding the well for us. I will be attending a meeting in Albuquerque tomorrow on it. It is a Federal project since President Bush signed an emergency drought contingency. From Senator Domenici's office, we were the first city to have all of our paper work on his desk and be funded through this emergency drought funding. Just a little update on Friday, we had three inches of rain in three hours. We had a number of minor flooding events. One was in Spaghetti Flats and of course the roads up here. The whole public works crew was very diligent in getting it under control. We were out until 8 p.m. repairing roads. Right now we are again down in Spaghetti Flats removing dirt that washed down the mountain. Miriam Road we have had to reschedule because of the rain. We cannot seal coat or chip while that road is wet and every time we would get it ready it would rain. Hopefully, if we can remain dry for the next few days we can finish that project. The Spring flow has maintained a pretty constant flow of 220 g.p.m.

Attorney Bryant asked how the newly completed drainage project on Parker Road function with all of the rain. Mr. Stewart said there was not a problem. In fact, we are now gathering the materials to put the guard rails up on both sides of the street on Parker.

Councilor Garrett said they were up on Colorado working really hard the other night and I just want to thank them.

NEW BUSINESS

Mayor Miller stated next item on the agenda, consider approving Mayor's Temporary Confirmation of Corporal Richard Schwalm to "Acting" Lieutenant for the Department of Public Safety.

Administrator Waters said you received your memos and read the Mayor's temporary appointment. This is an appointment to last during the interim period while we are currently undergoing a job search. I believe right now we have almost twenty applications that we have received for the Director of Public Safety that we have advertised. Of course, we need a person acting as a head of that department. The Mayor has chosen Rich Schwalm to sit in that role until a director is chosen for that department.

Councilor Garrett moved to approve the Mayor's temporary confirmation of Richard Schwalm to "Acting" Lieutenant for DPS. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider recommendation of Jean Proctor to Beautification Committee. I have known Jean for 46 years and she has all of the qualifications to fill that position.

Councilor Holman moved to approve Mayor's appointment of Jean Proctor to the Beautification Committee. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving Personnel Recommendation for Hubbard Museum of the American West position of Security Guard, David Merta.

Museum Director Smith said we had thirteen applications for our security guard position that was vacated by Chuck Calhoun who retired. We had three interviews and the committee unanimously selected David Merta for the position. He comes highly qualified, highly recommended and we think he will be a terrific addition to our team. As you know not only is security a priority in that position but someone who is familiar with history, especially western history is helpful considering most of our people think of that person as an information desk. We are very lucky to have a gentleman with 30 years of classroom and security experience. He also has a degree in History from San Francisco State University. He then introduced David Merta.

Councilor Hood moved to approve David Merta for the position of Security Guard at the Hubbard Museum. Seconded by Councilor Garrett. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving appointment of Steve Dunigan to Director Planning and Personnel Services Director.

Councilor Hood moved to approve Steve Dunigan to Planning and Personnel Services Director. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the agenda, consider approving the restructuring of affected departments and associated promotions.

Administrator Waters said as you have seen in a memo from the Mayor to myself and myself back to the Mayor, we have been looking at a way to handle the new department of the newly created position as the Director of Planning and Personnel Services, which is a joint department. The level of responsibility for both personnel, planning & zoning and code enforcement is a significant one in my opinion and the Mayor ranked it as a director's position. This position is certainly one that is going to get a handle on code enforcement and building inspection. When Tom Armstrong retired he was our only certified building inspector and only certified

plan reviewer. When you have an individual that does leave then you have to have someone on board that is certified or the State handles the certification for building inspection and planning and zoning. That is a process in the State's opinion that takes about a month to achieve. This happens with most small communities our size. However, that does leave us in a little bit of problem when you do have somebody with the experience that Tom Armstrong had with all of his certifications having to give that over to the State does create a little delay and disruption. The State has been very forthcoming in their willingness. Mr. Ron LeClair told me that during this interim period while Mr. Dunigan and Mr. Dunlap become certified as plan reviewers and building inspectors he will be helping by allowing them to walk around at his sites to basically act as an active field officer for both of these gentlemen to help them achieve some of the hands on knowledge necessary to pass the test at the State level. There are two tests we are talking about that will allow for both Mr. Dunigan and Mr. Dunlap to be certified at that level. Right now we are very fortunate that the State did agree to step in and take over for us. That does produce a little bit of delay. You do need to know that some of the permits will have to go through the Las Cruces office of the State Construction Industries Division. We are being told by the State that they will be visiting Mondays, Wednesdays and Fridays to do any permitting and inspections. At the same time we also have another issue. The personnel department has been sort of a split role. Personnel is reported directly to me and the payroll portion reports directly to the city clerk. These two are separated at this point according to the recommendation. What I would like to do is in the position that was vacated by Mr. Dunigan, this position would be hired in as a finance clerk. Carol Virden did come up with a job description termed as Finance Clerk I. In addition, there was a proposal from Carol that Terri Mosley who currently handles procurement and a variety of other duties for the City be allowed to handle payroll which has a little more responsibility than accounts payable and accounts receivable which is very time consuming which the new position would handle. The new organizational chart attached is what we are requesting in the reorganization. Essentially what has been done in the Public Safety Department we are transferring Code Enforcement back into the department Steve now heads in addition the personnel services over to that department as well. What is left is a complete picture of the different positions in the City. The other issues that come out of this are the promotions because they are truly added responsibilities to individuals and paying them for that added responsibility. Of course, the director's salary is a newly created position, which was taken care of in the prior motion. The second item would be Bill Dunlap who is currently classified as Code Enforcement Officer and allowing Mr. Dunlap to take and pass the New Mexico certifications to inspect buildings and review building plans would be part of his new job duties. Once he passes those certifications be paid according to the proposed salary schedule. He would also have a new title, which would be called the Building and Code Inspector as opposed to the Code Enforcement Officer. On the other we have the Finance Department and it is my recommendation that Ms. Mosley should be promoted with the new payroll responsibilities. I have determined she would be paid from the current rate of \$16.48 to a new rate of \$18.45

per hour and that she be allowed to continue to use her education incentive which is at \$0.35 per hour. This brings the annual salary up from \$35,005 to \$39,104. It places the position immediately under that of a department head supervisor level but above the mid-level management for the City. The Finance Clerk I position as proposed by Ms. Virden would be hired at \$10.30 per hour for the first year, then moved up to \$10.50 the second year and up to \$11.00 per hour for the third year at the top of the step system we currently operate under. Last but not least, there was a recommendation to give raises within the Finance Department and as you can see I am not recommending that at this time as it is a raise as opposed to a promotion. I would ask that the Council hold up on that and reconsider something at the mid-year adjustments.

Ms. Carol said I have proposed \$10.50 an hour for the Finance Clerk I. Administrator Waters said that was the only proposal so I did put it in the step system. The \$10.50 an hour falls in the middle of the step system. In addition the question came up whether this is going to be an overall increase in the budget. No it is not with all of the moves it will actually save the general fund \$1,331. The numbers have been run. In essence this is what I have asked the Council to pass. I think it will take care of some problems that we have that will fit within the budget. I will entertain any questions.

Attorney Bryant said when I was doing my pre-meeting telephonic briefing with each of the councilors, Judy Miller asked that the council consider the following question before taking action and that is aren't we doing something that we should do in the budget process by creating a new department. She also asked in the budget is it going to cost us more or less but I think Mr. Waters answered that part of the question. She was going to try to appear by telephone but she had to deliver her daughter to an appointment in Dallas and unfortunately it conflicted directly with the meeting.

Mayor Miller entertained a motion to approve. Councilor Hood moved to approve the reconstruction of affected departments and associated promotions. Seconded by Councilor Garrett. Mayor Miller asked is there any discussion.

Councilor Garrett said as to Councilor Miller's question, I think if we had known about it, it probably would have been discussed during the budget. We just didn't have that information that we were going to make some changes and I also had the question about how it would affect the budget.

Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller said I would like to add that Tom Armstrong is a personal friend of mine and has been for years. He was a very valued, important employee and he has

gone out of his way to assist me when I first came on as mayor. We are sorely going to miss Tom as he was a mainstay in our business.

PUBLIC INPUT

Ms. Pielat said my current residence is 621 Utah Lane, Ruidoso Downs, New Mexico. I would like to bring to your attention that we do thank Mr. Stewart so much who attended to my request for help regarding the water measure. The water comes down Nevada and the street above and actually torrents down Utah Lane. I am swamped each time we have a drenching down pour. Unfortunate for Mr. Stewart he caught my wrath and I am at a loss. I have been promised by members of public works that the water measure would resolve itself and I have spoken with members of the city council who were under the understanding that it had been resolved. I am not a U. S. citizen but I ask for immediate attention to this matter. Hopefully, you will review it and pay fast attention to it. I was told that we do not have sand bags in Ruidoso Downs. I was given a telephone number and it turned out to be Ruidoso Police Department. They were dishing out their sand bags and unfortunately there were not any for us. I wanted to bring that to the attention of the members of the council. Perhaps Public Works could do something.

Rene Olivo said I live on Turkey Canyon and I want to touch base on a couple of items. First of all, Tom said the water coming from Spaghetti Flats was coming off from the mountains but I was there after the rain and all I saw was ground water coming from those corrals. I bet the phosphorus in the river went sky high. This lady that just spoke, that problem has been going on for years. It is a pity that a city such as ours doesn't have sand bags.

Another thing, you guys have been praising Mr. Armstrong real high tonight. How come the Council has not presented him a plaque? If you can't afford one I will pay for it. That man dedicated fifteen years of his life to this city and you guys didn't have the guts to appreciate him; give him a plaque.

Jim Burrow said I live on Colorado and I know what the lady is talking about with her water coming down off the hill which we all know who is causing that. I think we are trying to be in the process to stopping that but she does have a problem there. I think we need to speed up our progress to try to help her. I don't know what we can do. I know we had to start bottom down on Parker Road to fix that problem. I am hoping Mr. Stewart and the city council can do something to speed it up. Also, I would like to thank Tom Stewart and his guys for courtesy on Friday. They worked in that rain all day long and they did a good job. I think Steve will do a good job for the job he has been appointed to do and I am behind him 100 percent.

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.

Councilor Garrett moved to go into Executive Session for the discussion of all Threatening and or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1 Subparagraph (H)7. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller closed the regular meeting at 6:22 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 five minute recess to clear the Council chambers.

Motion was made by Councilor Garrett and seconded by Councilor Hood to go back into regular session. Roll call votes: Councilor Hood, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller called the regular meeting back to order at 7:02 p.m.

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

Mayor Miller entertained a motion to adjourn.

Motion was made by Councilor Hood and seconded by Councilor Garrett to adjourn at 7:02 p.m. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer