

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
DECEMBER 11, 2006

The Council of the City of Ruidoso Downs met in regular session on December 11, 2006. Mayor Miller called the meeting to order at 5:30 p.m. and asked Jim Burrows to lead the Pledge of Allegiance. Mayor Miller asked City Manager, John P. Waters to take roll call. The following were present:

Councilor Hood (via phone conference)	Councilor Miller
Councilor Holman	Councilor Garrett

City Manager, John Waters informed Mayor Miller there was a quorum.

Also present:

John P. Waters, City Manager  
Carol Virden, City Clerk/Treasurer  
Dan Bryant, City Attorney  
Jay Smith, Museum Director  
Steve Dunigan, Planning & Personnel Services Director  
Mark Lewis, Interim Public Works Supervisor

APPROVAL OF AGENDA

Mayor Miller 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; Councilor Garrett, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor Miller entertained a motion to approve the Consent Agenda. Councilor Holman 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 SPECIAL MEETING OF NOVEMBER 13, 2006

Motion was made by Councilor Holman and seconded by Councilor Garrett to approve the Minutes of Special Meeting of November 13, 2006. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF REGULAR MEETING OF NOVEMBER 27, 2006

Motion was made by Councilor Holman and seconded by Councilor Garrett to approve the Minutes of Regular Meeting of November 27, 2006. Roll call votes:

Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

#### APPROVAL OF ACCOUNTS PAYABLE

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

#### UNFINISHED BUSINESS

Consider Approving Wastewater Treatment Plant Operating Billing of 15% for months of September and October 2006.

Mayor Miller entertained a motion to approve Wastewater Treatment Plant Operating Billing of 15% for months of September and October 2006. Councilor Garrett asked if there was any information provided for this billing period. Dan Bryant, attorney, stated that within the councilor packets there was a series of eight or nine pages of data provided by the Village of Ruidoso. Councilor Miller expressed concern between the figures for expenses from the first month being almost twice as much as the second month.

Dan Bryant explained that the information provided is a June 30, 2006 monthly report and then a December 5, 2006 year-to-date report, which represented a five-month period and not just the two months that was asked for. John Waters noted the information in the councilor packets was not the information requested from the Village of Ruidoso in regards to accounts receivable. He suggested that either Dan Bryant, attorney, or someone within our finance department communicate with the Village of Ruidoso once more for the specific information previously requested. He suggested that we should send them a copy of our accounts receivable report to show them what kind of report we would like to see.

Councilor Holman stated he has serious concerns about the percentages between the two entities and feels that the City of Ruidoso Downs has been very generous up to this point with the Village of Ruidoso. He feels the percent is in the spirit of cooperation but hopes that within a short period of time more accurate measurement would be obtainable. He stated that when the village took customers in and the volume and numbers were fairly high that the percentages stayed the same and should have been adjusted somewhere along the line. He expressed his hope that the village and city would go with a joint use board that is independently selected apart from the village or city. He stated that he understands some hard feelings could result when the village has an 85% split they feel they should have more control. He hopes a fair environment can be created through a Joint Use Board. John Waters reiterated that he would pursue obtaining the information from the village as asked for by the councilors.

Dan Bryant brought discussion that in September when the council considered the request to continue paying the 15% part of what the council did at that time was to

specifically condition the council's willingness to do that with the notion that an accounting was still needed and should reflect back to December of 2005. He stated the purpose of that would be to settle the books at that time. Mr. Bryant wanted to remind the council that they were not just mindlessly paying the 15% but had intentions to settle upon receiving the proper accounting. He stated that the critical unknown between the two communities, which stymies this discussion, is inflow and infiltration into the system. He stated that it was not at the most immediate previous meeting but the meeting before that, that the council was advised that there had been a manhole with significant inflows. Dan Bryant stated he was defining that as outside ground water leaking into the sewer system due to pipes cracking and things of that nature. This is as opposed to storm water coming in just when there is a storm event.

Dan Bryant encouraged the council and administration to pursue repair of the manhole(s) recently brought to the councils' attention. This would be crucial in the monitoring of the inflow of storm water with more accuracy in order to have a sound basis for the percentage splits. It was his opinion that the cost should be bourn by the Joint Use Advisory Board because over time that board would retain jurisdiction of the main interceptor lines. After each manhole was repaired the measurement of flows would aid in a cost benefit analysis and the city would be able to reflect that cost in the budget.

Dan Bryant stated that should litigation ever be pursued the city would be accountable and responsible for proving the infiltration of inflow measurements. He also cautioned that metering at the boundaries between the two municipalities should be accurate in order to come up with a reasonable percentage break. Dan Bryant asked John Waters if he was able to explain any of the expenses from the village report. John stated he was not able to justify any of the line items or whether the purchases were normal and regular. He stated there was no key to identify the line item purchases that reflects the high percentages. There simply was not enough information provided to make an accurate assessment. He stated the city is able to make quarterly budget adjustments and should be doing so but is dependant on the information provided from the village.

Councilor Hood moved to table approval of Wastewater Treatment Plant Operating Billing of 15% for months of September and October 2006 until Dan Bryant, City Attorney and John Waters, City Manager were able to obtain further information. The motion was seconded by Councilor Garrett. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

#### OTHER BUSINESS

Jay Smith, Museum Director, addressed the council and audience members with a report on the declining attendance of the Hubbard Museum of the American West since the year 2000. With the exception of an upswing in 2004 due to having the Sue Traveling Exhibit he related that at the end of the year 2006 attendance should be up

20% from the prior year. This would approach the figures more in line with 2002 and 2003.

Mr. Smith felt that turning a negative attendance trend around was a good sign and positive first step for the museum since acquired by the City of Ruidoso Downs. Jay stated this is not the only means of monitoring the success but also an indicator of success of the improvements that have been made at the facility. He stated that in light of local and national data there is a general decline in attendance of museums of approximately 15%. Jay stated that there are several new projects planned for the following year and plans to keep the upward trend going.

There were no other topics for discussion.

#### NEW BUSINESS

Mayor Miller stated that next item on the agenda was Consider Approving Resolution No. 2006-17 Open Meetings Act.

Councilor Holman made a motion to Consider Approving Resolution No. 2006-17 Open Meetings Act. Motion seconded by Councilor Garrett to approve. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated that next item on the agenda was Consider Approving Resolution No. 2006-18 Official Holidays.

Councilor Holman made a motion to Consider Approving Resolution No. 2006-18 Official Holidays. Motion seconded by Councilor Garrett to approve. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated that next item on the agenda was Consider Approving Resolution No. 2006-19 Eradicating Resolution 2006-10 Uncollectible Accounts from Resolution Book (duplication of Resolution No. 2005-06).

Mayor Miller entertained a motion to Consider Approving Resolution No. 2006-19 Eradicating Resolution 2006-10 Uncollectible Accounts from Resolution Book (duplication of Resolution No. 2006-06).

Councilor Garrett moved to Consider Approving Resolution No. 2006-19 Eradicating Resolution 2006-10 Uncollectible Accounts from Resolution Book (duplication of Resolution No. 2006-06. Councilor Holman seconded the motion. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye, Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated that next item on the agenda was Consider Approving Resolution No. 2006-20 06-1278-GF (F) Regional Wastewater Facility (\$91, 192)

Councilor Holman made a motion to Consider Approving Resolution No. 20 06-1278-GF (F) Regional Wastewater Facility (\$91, 192). Motion seconded by Councilor Garrett to approve. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated that next item on the agenda was Consider Approving the Cancellation of December 27, 2006 City Council Meeting.

Councilor Holman made a motion to Consider Approving the Cancellation of December 27, 2006 City Council Meeting. Motion seconded by Councilor Garrett to approve. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated that next item on the agenda was to Consider Awarding Bid No. 07-002 Corrective Repairs and Parts Replacement For Internal Fire Sprinkler System.

Jay Smith, Museum Director stated this was for an infrastructure improvement for the fire sprinkler system and is budgeted for Fiscal-Year 2007. It is an aging system that needs a new mechanized control as well as the replacement of valves and at least a portion of the 300-foot long pipe system. He stated it has been leaking for some time and the item cost is approximately \$1,100.00, which is under what was expected.

Mayor Miller entertained a motion to Award Bid No. 07-002.

Councilor Miller moved to Award Bid No. 007-02 Corrective Repairs and Parts Replacement For Internal Fire Sprinkler System. Councilor Garrett seconded the motion. Carol Virden, City Clerk/Treasurer inquired if this would meet the current fire code and Mr. Smith acknowledged that it would. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motioned carried.

Mayor Miller stated next item on the agenda was Planning and Zoning Board to Consider Approving P & Z Recommendation-Approval of Request for Conditional Use for Day Care Center at 510 Harris Lane with the condition that a fence be added to separate the dog from the children.

Paul Van Gulick, Chairman informed the council and audience that their committee heard a request from Maria Mendoza. Her intent is to relocate the existing childcare center from Utah to Harris Lane. Chairman Van Gulick stated this actually was a good idea due to the fact that it was nearer to a bus stop and would allow the children to walk less distance to the facility. Their concern is that there is a dog on the premises and that a fence should be erected in order to separate the dog from the children and play area. With this being the only condition placed for this request he

recommended approval of the conditional use for the day care center to be located at 510 Harris Lane. Steve Dunigan, Director of Planning stated an inspection was conducted and they have complied with the specified conditions. Councilor Garrett asked if this would increase the number of children in the day care center. Paul Van Gulick stated the state regulates the number of children allowed by the square footage of the facility.

Mayor Miller entertained a motion to approve. Councilor Garrett moved to approve P & Z Recommendation-Approval of Request for Conditional Use for Day Care Center at 510 Harris Lane with the condition that a fence be added to separate the dog from the children. Councilor Hood seconded the motion. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

### PUBLIC INPUT

Mayor Miller stated next item on the agenda was Public Input. Mr. Jim Burrow, a resident on Colorado Street stated he was in support of the Joint Use Board for the Wastewater Treatment Plant between the Village of Ruidoso and the City of Ruidoso Downs. Mr. Burrow stated he had studied the report received from the village very closely and felt that the city was probably being charged for items they shouldn't be charged for. He asked Dan Bryant, Attorney if the City of Ruidoso Downs could put their money in escrow until an itemized statement is received from the Village of Ruidoso. Mr. Burrow also stated his opinion that Ruidoso Downs needs one if not two representatives on the school board and that the deadline is December 19, 2006 to make that decision and sign up in Carrizozo. He also stated there would be three positions open in February. Mr. Burrow encouraged all to vote for the Wastewater Treatment bond issue and asked Mark Lewis, Interim Public Works Director about the progress on the manholes. Mark stated he did not but would have more information in the near future. With no other discussion Mayor Miller thanked Mr. Burrow for his comments.

### EXECUTIVE SESSION

Mayor Miller stated next item on the agenda was Executive Session Discussion of all threatening and/or pending Litigation and entertained a motion to go into Executive Session.

Councilor Miller made a motion to go into executive session for Discussion of all threatening and/or pending Litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7 and Limited Personnel Matters pursuant to Open Meeting Act; Section 10-15-1 Subparagraph (H) 2. Councilor Garrett seconded the motion. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller closed the regular meeting at 6:15 p.m. and invited City Manager John Waters, City Clerk Carol Virden and City Attorney Dan Bryant into the council chambers after a five-minute recess.

Mayor Miller entertained a motion to go back into open session.

Councilor Garrett made a motion to go back into open session at 7:14 p.m. Seconded by Councilor Miller. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Councilor Garrett attested to the fact that the only topics discussed in closed session were that of threatening and/or pending litigation and limited personnel matters and that no decisions were made.

Mayor Miller entertained a motion to uphold his decision in terminating Public Works Director, Tom Stewart.

Councilor Garrett moved to uphold Mayor Miller's decision to terminate the Public Works Director, Tom Stewart. Seconded by Councilor Hood. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller entertained a motion to uphold his decision to appoint Mark Lewis as interim Public Works Supervisor.

Councilor Hood made a motion to uphold Mayor Miller's decision to appoint Mark Lewis as interim Public Works Supervisor. Seconded by Councilor Miller. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller entertained a motion to adjourn. Councilor Miller moved to adjourn at 7:16 p.m. Seconded by Councilor Garrett.

---

Bob A. Miller, Mayor

ATTEST:

---

Carol Virden, City Clerk/Treasurer