

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
MAY 29, 2007

The Council of the City of Ruidoso Downs met in regular session on May 29, 2007. Mayor Miller called the meeting to order at 5:30 p.m. and asked Councilor Garrett to lead the Pledge of Allegiance. Mayor Miller asked John Waters, City Manager to take roll call. The following were present:

Councilor Hood	Councilor Miller (via telephone)
Councilor Holman	Councilor Garrett

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

Also present:

John Waters, City Manager
Kathy P. Tetreault, Secretary-Finance & Administration
Alfred Ortiz, DPS Chief
Steve Dunigan, Planning & Personnel Services Director
Jay Smith, Museum Director
W.T. Martin Jr., City Attorney

APPROVAL OF AGENDA

Mayor Miller entertained a motion to approve the Agenda.

Councilor Garrett 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 JOINT MEETING OF MAY 7, 2007.

Motion was made by Councilor Holman and seconded by Councilor Garrett to approve the Minutes of Special Joint Meeting of May 7, 2007. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF SPECIAL JOINT MEETING OF MAY 10, 2007.

Motion was made by Councilor Holman and seconded by Councilor Garrett to approve the Minutes of Special Joint Meeting of May 10, 2007. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF MINUTES OF REGULAR MEETING OF MAY 14, 2007.

Motion was made by Councilor Holman and seconded by Councilor Garrett to approve the Minutes of the Regular Meeting of May 14, 2007.

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

APPROVAL OF MINUTES OF BUDGET WORKSHOP OF MAY 17, 2007.

Motion was made by Councilor Holman and seconded by Councilor Garrett to approve the Minutes of the Budget Workshop of May 17, 2007. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLES

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.

APPROVAL OF MONTHLY REPORTS

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

Mayor Miller stated next item on the Agenda was Unfinished Business. There was no Unfinished Business to discuss.

OTHER BUSINESS

Mayor Miller stated next item on the Agenda was Other Business.

Councilor Holman said he would like to commend the Mayor and City Manager for the good job done on the budget. He was pleased the budget was balanced, unlike our neighbor the Village of Ruidoso. He said Carol Virden, City Clerk and staff had done a good job as well as Chief Ortiz and Steve Dunigan and their departments. He said Councilor Garrett and himself were on the budget committee. He thanked Jay Smith for his efforts at the museum. Councilor Holman said employees of the City of Ruidoso Downs had job descriptions but that most of them don't let it end there, they go beyond to get the job done. Councilor Garrett said their hard work made their job easier.

NEW BUSINESS

Mayor Miller stated next item on the Agenda was Consider Approving Sewer Installation Agreement.

John Waters said the agreement was with the contractors Cliff and Scott Rowe. He said the City had some sewer lines that were required to put in and a timetable to get them in. To make the job go quicker the City had spoken with local contractors who would also need sewer lines into their subdivision. That allows the City to move the timetable up by 18 months into the Agua Fria area. He said it was a minimal cost for the City because all we were paying for was the line and not for the installation that was normally the lion's share of the cost in those types of projects. He said he had intended to get grants to help with the project and that in the past our State Representative, Dub Williams helped in getting sewer extension grants for the City. Working with the contractors and making this agreement would allow the City to purchase just under \$25,000.00 worth of materials to put sewer line in from the corner of Parker Dr. and Park Lane. up to Parkway Lane. This would be the first wing of the expansion into Agua Fria. There was a small section of 2-inch line that was being replaced with 6-inch line and was required in order to install fire hydrants. The goal was to get lines all the way to Griffith Dr. There is a grant waiting from Dub Williams to put sewer along Griffith Dr. John Waters said that would not include purchasing the materials for the Escondido Hills Subdivision. That would be the responsibility of the contractor.

Councilor Garrett asked if the line would allow for H.E.A.L. to be hooked up. John Waters said the line would be accessible to H.E.A.L. as well as the other two businesses in close proximity to H.E.A.L. The City of Ruidoso Downs would not be hooking them up but at least the lines would be close.

Mayor Miller entertained a motion to approve the Sewer Installation Agreement.

Motion was made by Councilor Miller and seconded by Councilor Garrett to approve the Sewer Installation Agreement. 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 was Consideration of Library Request FY 2007-2008 Budget.

Councilor Miller said she would like to speak in favor of the request because the library was community based and for the benefit of the entire county. She said education was very important, particularly to herself as an educator and that children as well as adults could go to the library to enjoy what they have to offer.

Mayor Miller entertained a motion to approve the Library Request FY 2007-2008 Budget.

Motion was made by Councilor Miller to Approve Library Request FY 2007-2008 Budget and suggested giving \$7,500.00. Motion died due to lack of second.

Mayor Miller stated next item on the Agenda was Any Other Amendments FY 2007-2008.

Councilor Garrett said last time they discussed waiting on a part-time position for the courts since there were already two full-time positions but it was not removed in the line item.

John Waters said this would need action from the Council and would need the Mayors' approval.

Motion was made by Councilor Garrett to amend the 2007-2008 Budget to remove the part-time position for the Municipal Court and 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 was Consider Approving City of Ruidoso Downs Fiscal Year 2007-2008 Preliminary Budget.

Councilor Hood made motion to Approve City of Ruidoso Downs Fiscal Year 2007-2008 Preliminary Budget with the amendment of removing the part-time position for the Municipal Court. Councilor Garrett questioned if there would be an opportunity to adjust the budget prior to the final budget being approved. John Waters said the final budget could be modified and would be due in July and that the Preliminary Budget allowed the City to operate through that time. Councilor Garrett seconded the motion. 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 was Discussion of City of Ruidoso Downs Regional Wastewater Treatment Plant Percentage and the Mescalero Customer Account.

Councilor Holman said he was concerned about the slow movement on some of the items and asked that it be placed on the Agenda. Regarding the Wastewater Treatment Plant he gave a "what if" scenario: What if we just didn't build the Wastewater Treatment Plant? He said he would assume the State or Federal or combination of both would have had to build the Plant. They would have done the construction and then billed the City of Ruidoso Downs accordingly. They would have had to build it within the time frame they had put on us and with the most stringent standards the Environmental Department had put on the City of Ruidoso Downs. Then if they could not meet those standards we could just sue them. That's what the plan is and he said their standards were extremely hard to meet if not impossible.

Councilor Holman gave some history on how the Wastewater Treatment Plant came about. He said the Village of Ruidoso made the area a coldwater fishery. He said that was the main reason we were having the problems and those kinds of decisions bring

the City of Ruidoso Downs in on those problems as a junior partner. He expects the issue of 85% and 15% split to come up within the Joint Use Board and said it should be equal representation. The representation should be between the Village of Ruidoso, City of Ruidoso Downs, and Lincoln County and anything less than that would be unacceptable. He said the audit by the State on the administration of the Plant was returned as unsatisfactory. He felt the Village of Ruidoso had decided on their own to bring Mescalero in as a customer. The Inn and the Travel Center at one time had to haul their solid waste elsewhere and was incredibly expensive. He questioned why the Village would not have used that as leverage and asked Mescalero to come on as a partner. He suspected they probably would have accepted that but he suspected there was more to the story we may not know. They were basically handed a customer relationship and that was not good for the City of Ruidoso Downs. There was another decision by Ruidoso that brought the City right into the trouble with them. Councilor Holman understood that created two commercial accounts, the Inn of the Mountain Gods and the Travel Center. Since then houses had been added on Palmer Loop. He said if Ruidoso raised the commercial rate for the Mescalero then they would also have to raise it for all commercial accounts. To compound the problem there were FEMA houses recently being brought in. He followed the placement of a couple of those and they were placed on this side of the summit. He suggested following up on whether they would be adding sewer service to all the new houses, it would add to the volume being treated by the sewer plant and thus add to the City of Ruidoso Downs percentage. That, in essence, causes the City of Ruidoso Downs to subsidize the two new accounts and Ruidoso needs to let Ruidoso Downs know what was happening. He said Ruidoso was being compensated but Ruidoso Downs was not. He said again he wanted to repeat that he was not criticizing Mescalero, they saw a good deal and took it just as he would have for the City of Ruidoso Downs. The Village of Ruidoso and its Council members were showing a willingness to work with the City of Ruidoso Downs and he stressed that we continue the pursuit of cooperation.

Councilor Garrett added that the 15% billing of the Wastewater Treatment Plant and decision to pay the billing was on the Agenda that evening. She asked if the City had been included in the budget process for the Wastewater Treatment Plant. It was her understanding that the budget for the Village of Ruidoso was due on the same day as the City of Ruidoso Downs. She asked if there had been a JUAB meeting called in order for the City to be included in the budget process. Up to this point she had only seen a figure and no cost expenses from Ruidoso and had not seen the budget that would be submitted.

John Waters said under the current year budget he had requested and received by email from the Village Manager a figure that expected the City of Ruidoso Downs to exceed the budget by \$20,000.00. He said as of the April 2007 billing the City of Ruidoso Downs was already in the hole \$16,000.00. If calculated out through June 2007 it would exceed \$20,000.00. There had been no discussions between the two entities nor had there been any JUAB meetings to discuss budget. The City of Ruidoso Downs Preliminary Budget reflects the amount of approximately \$176,000.00 and includes the 18.8% increase the Village of Ruidoso was asking for in the next fiscal year. He said

indeed the JUAB would have to approve the budget. Councilor Garrett expressed she would like the opportunity to review the Wastewater Treatment Plant budget prior to the final budget. Councilor Miller asked John Waters if a JUAB meeting could be called to address the concerns. He said the JUAB Chairman or a majority of the Board could call a meeting. Under the current situation Mayor Miller and he would need one other member of the Board to ask to call a meeting but they were also under the constraint of a 24-hour notice of meeting. Councilor Miller said a meeting would give the City the opportunity to address the billing and sludge press as well as collecting 15% from the new accounts with Mescalero.

John Waters said he intended to address the "Administrative fee" with the Village of Ruidoso at the next JUAB meeting. He said this year they had taken \$88,000.00 out of the Wastewater Fund and put it directly into their General Fund to pay for the Administrative Cost and the City should not be accountable for that. The City of Ruidoso Downs were the only ones doing any new construction work on the new part of the Treatment Plant, probably because we had a more streamlined purchasing procedure. He said the City acted on that because the Governor would have taken back approximately \$800,000.00 of Tax Relief money for not using it. John Waters said he believed there would be an audit finding if the JUAB did not turn in their budget on time. Councilor Garrett, Councilor Hood, and Councilor Miller said they would like to have the opportunity to discuss several issues. Councilor Holman commended Councilor Miller about having these same concerns months ago.

Mayor Miller stated next item on the Agenda was Consider Approving Wastewater Treatment Plant Operating Billing of 15% for month of March and April of 2007.

Councilor Holman moved to Approve Wastewater Treatment Plant Operating Billing of 15% for month of March and April of 2007 and seconded by Councilor Garrett. 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 with a three-minute time limit.

Jay Smith, Museum Director informed the Mayor and Council members that he received a check last week in the amount of \$90,000.00 from R.D. and Joan Dale Hubbard. The proceeds were a result of the C.A.R.D. Golf Tournament held each year in California for the benefit of the museum. He said that was a long-term agreement between the Hubbard's and the City for continued support of the museum.

Chief Alfred Ortiz said last week the department received a Level III bulletproof vest for their police dog, "Tinka." The Foundation donated the vest in cooperation with Wal-Mart and he said it was a valuable asset and piece of equipment. The police department had a large investment in their police dog. The foundation is name "Invest in PDP"

(police dog protection) and had supplied other vests around New Mexico and the Southwest.

EXECUTIVE SESSION

Mayor Miller stated next item on the Agenda was Executive Session: Discussion of all threatening and/or pending litigation pursuant to 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.

- A. Consider possible action in regards to Threatening and/or Pending Litigation.
- B. Consider possible action in regards to Real Property and Water Rights; Pursuant to Section 10-15-1, Subparagraph (H) 8.
- C. Consider possible disposition of Real Property; Pursuant to Section 10-15-1, Subparagraph (H) 8.

Mayor Miller entertained a motion to go into Executive Session for the Discussion of all threatening and/or pending litigation pursuant to 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 approve to go into Executive Session for the Discussion of all threatening and/or pending litigation pursuant to 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. Seconded by Councilor Garrett. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller closed the regular session at 6:22 p.m. to go into executive session. Mayor Miller invited John Waters, City Manager, W.T. Martin Jr., P.A., City Attorney, and Jay Smith, Museum Director into the Council Chambers after a five-minute recess.

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

Councilor Hood made a motion to go back into regular session. Seconded by Councilor Garrett. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller called the regular session back to order at 8:39.

Councilor Garrett attested to the fact that the only item discussed in executive session was that of threatening and/or pending litigation pursuant to 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 and no action was taken.

Motion was made by Councilor Garrett to authorize W.T. Martin Jr., City Attorney to negotiate a settlement with Dennis Riddle. Motion seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Garrett to approve the agreement of the McTeigue Water Rights. Motion seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Garrett to authorize Mayor Miller and John Waters; City Manager to investigate the properties for auction on the Tax Rolls and to attend the auction and not make a bid that would exceed \$1,300,000.00. Motion seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Motion was made by Councilor Garrett to authorize John Waters, City Manager to sign closing documents on behalf of the City of Ruidoso Downs on the Jane Clark estate. Motion seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

ADJOURNMENT

Mayor Miller entertained a motion to adjourn. Councilor Hood moved to adjourn at 8:40 p.m. Motion seconded by Councilor Holman. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer