

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
JANUARY 28, 2008

The Council of the City of Ruidoso Downs met in regular session on January 28, 2008. Mayor Pro tem Garrett called the meeting to order at 5:30 p.m. and asked Jim Burrow to lead the Pledge of Allegiance. Mayor pro tem Susan Garrett asked John Waters, City Manager to take roll call. The following were present:

Councilor Hood
Councilor Holman

Councilor Miller
Mayor pro tem Susan Garrett

John Waters, City Manager informed Mayor pro tem Garrett there was a quorum.

Also present:

Carol Virden, City Clerk/Treasurer
Steve Dunigan, Planning & Personnel Services Director
Mark Lewis, Acting Public Works Director
Jay Smith, Museum Director
Alfred Ortiz, DPS Director
W.T. Martin Jr., City Attorney

APPROVAL OF AGENDA

Mayor pro tem Garrett entertained a motion to approve the Agenda.

Mayor pro tem Garrett said there was a typographical error to mention in item 11 that it should be A and B instead of B and C. Councilor Hood moved to approve the Agenda. Seconded by Councilor Miller. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor pro tem Garrett entertained a motion to approve the Consent Agenda.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF JANUARY 14, 2008. Motion was made by Councilor Miller and seconded by Councilor Hood to approve the Minutes of

Regular Meeting of January 14, 2008. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLES

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

APPROVAL OF MONTHLY REPORTS

Motion was made by Councilor Miller and seconded by Councilor Hood to approve Monthly Reports. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem, Aye. Motion carried.

UNFINISHED BUSINESS

Mayor pro tem Garrett stated next item on the Agenda was Unfinished Business and asked if there was any Unfinished Business to be discussed.

There was no Unfinished Business to be discussed.

OTHER BUSINESS

Mayor pro tem Garrett stated next item on the Agenda was Other Business-Employee of the Quarter-Planning/Licensing-Patty DeSoto.

Steve Dunigan introduced Patty DeSoto from the Planning/Licensing and Personnel Department. He said she was chosen as the fourth quarter of 2007 Employee of the Quarter. He said she always has a big smile, very helpful and would go out of her way for anybody to do anything. He said she is a great team member and he was happy to announce that she was the Employee of the Quarter. There was a round of applause. Mayor Pro tem Garrett said she also wanted to thank Patty and that she has never called the office and had Patty be anything but helpful and polite. She said she always does exactly what we ask her to do and if we have a stupid question she always says she'll find out. Councilor Hood said he would like to thank Patty and wanted her to know how much we appreciate her because she is always there to do the job. He said she always brightens his day when he comes over because she says he always give Steve a hard time.

Mayor pro tem Garrett stated next item on the Agenda was Update on Lobbying in Santa Fe.

John Waters said he has spent a few days in Santa Fe, two different weeks. He said the first week he went up was the week before last and had a meeting with the Environment Department. He said aside from it being loads of fun he was able to make sure that the grant agreements that we received, that the paper so graciously printed, were actually spelled out to the right party. So, the \$720,000.00 that Representative Williams helped us

get last time around did go to us for our share of the Wastewater Plant. There was apparently at least some confusion from the other side that 85% of it was supposed to go to Ruidoso. Of course we lost the 2005 money because they convinced the State Environment Department to take away 85% of those particular grants. He said this year he made sure those grant agreements came back. He said this is money awarded by the last legislature so this is not this year's money but last year's money. It shows you the slowness that the State takes in awarding the grant. He said we don't even have the grant agreement yet but he picked them up from Santa after we had our discussion with the Environment Department. After that the one thing we wanted to try to do was get support from the governor's staff, ie the Environment Department to perhaps put an appropriation for the City of Ruidoso Downs Wastewater Treatment Plant in their budget because as you know our legislators are only given a certain amount of money. He said we were a republican county and a county of only about 20,000. We don't stack up politically as powerful as some of the northern New Mexico municipalities, counties, and districts so there is only a limited amount of money allocated to Senator Adair and Representative Williams. The belief would be if we went to the governor's staff that if an appropriation came through his staff through the Environment Department budget that we would get a little bit more support from some of the legislators in the northern part of the state. He said they have been down here for several interim meetings. There were meetings at the museum, at the civic center in Ruidoso to try to convince all of the different committees that it was very necessary. John Waters said we did get a lot of good discussion with Speaker Lujan and they did say they wanted to support us however this is that time to fish or cut bait. He said what we're hearing is there isn't a lot of money but we hear that every year so that's not unusual but we walked away with quite a bit last year.

John Waters said now that the plant price is out which is forty million six hundred thousand dollars as the total cost of the plant and that includes both the construction and engineering. That would leave our cost at somewhere around six million for the plant at fifteen percent. Right now we have the 1.4 million dollar bond and a little over a million and a half in grant monies that we've been fortunate enough to procure. He said we've been trying to get grant monies since 2004 and we were the only ones to get 2004 grant monies awarded to us aside from the governor's 2003 monies that started the slush project. He said we've been working really hard and will continue to work hard but he said he needs the Council's help. John said on this last trip he was told that the governor didn't have much money allocated for us and by that he said there was nothing allocated for the Wastewater plant for Ruidoso or Ruidoso Downs from the governor's office. He said Representative Williams and Senator Adair are both telling us they are going to support us as much as they can. He said he understands Representative Foley is also interested in putting something in for the joint plan however the large share of the money generally comes from the governor because he has a full half of that money that's up there that he gets allocated for capital projects and there is no squabbling about who is from the north, south, east or west. John said unfortunately their staff members told him in a meeting that there is currently nothing on the table for Ruidoso or Ruidoso Downs for the Wastewater

plant from the governor's office. He said what he really needs is help from the Mayor and Council to accompany him on Municipal Day to try to setup an impromptu meeting with the governor. John said he was a staff member and was there to provide information and they see him as a single voter. They see each and every one of them as representative of a certain pool of people who voted and it means a lot when you have a Mayor and Council and some of their supporters to come up and talk to the governor. During Municipal Day, which is Thursday and Friday, he said he was going to try to setup a meeting with at least the staff of the governor if not the governor himself to come up with some type of arrangement to come up with some funding for us. He said really the State created this problem and it's about time they started putting in more money for it. If the State had insisted that this be on our permit we wouldn't be looking at this now and it's certainly our citizens had come forward in both municipalities voted to max out their bonding capacity with their GO Bond. He said our people have stepped up to the bat and now it's time for the people who actually created the rule for us to step up and really help us out. John reminded and said he would quote this and that it was really unfortunate that the newspaper wasn't here because they need to hear this, that Ron Curry sat right in that meeting we had, the joint meeting in the museum, and he said, "Now that you all have signed this agreement people will be lining up to give us money." He said he was waiting because they're not lining up anywhere and we need that money and it's about time we call the governor's staff on the carpet and tell them, "If this is something you don't want us to go out and talk to people about you need to help us out because you did tell us that if we sign this agreement that bound us to thirty six months that you would help us get funding." John said he said it, he said it in the meeting and it's in the minutes and John was going to make it very visible to everybody including the governor. John said governor and politicians respect city councilors because they are elected by the people and carry the power of the people and he again asked any and all of them to come to Municipal Day in Santa Fe and go with a coalition to convince these folks that we really need the help. It's something when a community can just charge their citizens a little more on their rate because they feel they've got the ability to do that but from our community standpoint that is not something we can do. We cannot afford to do that; the line has been drawn in the sand for us. You can raise the rates all you want here in Ruidoso Downs but if they're not getting paid it's not going to pay for the Wastewater Treatment Plant. John said not only that but there's going to be a whole new group of people up here to talk to the governor next time around because quite frankly as a poor community we need help and certainly with our Council up there he was hoping the governor would listen to each one of them and that they will put our case forward. He said on Ruidoso Day, Ruidoso had half their Council there and met with the governor. John said he was not called to that meeting so he didn't know what went on at that meeting or what the governor's staff told them. He said the situation in Ruidoso Downs was different than Ruidoso and that we need the Council to convey that to the governor. He said this issue with the Wastewater plant was the issue of the decade. It is something that so overshadows anything that we have. You're being asked to put in, our portion of the plant is what would be compared to a city of twenty to thirty thousand for a regular plant upgrade and we are about one-tenth

of that. He said we're getting down to that period of time where we need that funding. John said we've got this year and half of next year to get that funding or we were not going to make our side. We've got federal grant monies out there, state requests, requests to change rules and we're doing everything we can to get that funding. He said the governor listens, especially when you have a united Council. We may have other issues going on here and there, we've got elections going on, but when it comes to our town we're all united. John said he was sure when the governor sees that he would sit back and think about it.

Councilor Miller asked if our cost of this plant has almost doubled because of it going up from thirty five to forty million? She said she thought we needed three million and now we need six million and asked what was going on? John Waters said we already have half of the six million. He said the plan itself, the option that was voted for didn't include the seven percent for the design and engineer and that it only included the construction. He said what he did was add that in and altogether that equals forty million six hundred sixty thousand. He said if we get the thing on track and built on time he prayed it wouldn't go up anymore. Every single day we wait and every single year we wait that price continues to go up, it's the concrete, it's the steel. The cost of electronics has gone up because every other country needs new electronics for controlling the system. He said we have to get this thing built now because the longer we wait the worse it's going to be. If we would have gotten this thing on track three years ago we probably would be talking about a plant that's somewhere around thirty five million, that's how much it's gone up in that period of time, since Katrina and the Chinese steel rush. John said he knew it had hit other areas because our bridge was the same way, Parker Road Bridge. He said in budget last year he talked about how we had originally applied for a grant in 2004 for the Parker Road Bridge and it was two hundred sixty one thousand because we thought that was going to be the project plus about fifty thousand our match. Well, between that time New Orleans got devastated by the hurricane and then the hurricane hit Texas and the Chinese steel rush happened and so what happened is the cost of that all-steel bridge just jumped. It went from a bridge that was going to be about three hundred ten thousand to one that's almost at five hundred thousand now. That's just what we have to deal with in these Public Works projects and the plant did the same thing to us. The cost of the plant right now, the one that we're shooting for, is the most accurate cost that we've got. If the bids come in higher it's going to go up. If it comes in lower we're going to save some money. He said he hadn't seen many bids come in lower than what the engineer's estimates were. John said he was guessing we were looking at something that was at least half what the estimate was if not higher. Councilor Miller said she was beginning to wonder if we were ever going to get out of the planning stage. He said first we have to get out of the funding stage but that we did put in a request for the federal government again. John said you've got to realize that Representative Pearce now wanted to become Senator Pearce, that's a down turn because he's going to be busy trying to campaign. The good thing is that now Heather Wilson was interested in our situation and we were going to submit a request to both Representative Wilson and Representative Pearce. He said there would be a junior

representative replacing Steve Pearce or Heather Wilson or Udall, whoever gets the senator spot and we're going to have a holes down in the congressional spots so we may have a new congressman coming out of this district. So, really we don't have a request in for this district because there's going to be no one to make that request. So, we're behind another year in the federal government. We can only hope that perhaps one of the three congressional candidates gets the senate spot and will look at us. We do have a request submitted from Bingaman's office, the senator told us he did submit the request, however it didn't make it through committee this year. John said we would submit it again next year, however he said he wouldn't hold his breath for federal funding at the Washington level. The only thing he thought we would get out of this was some USDA money. Councilor Miller said a lot of those trips didn't amount to anything. John said we got seven hundred fifty thousand out of our first trip for our water well and the last two trips we didn't receive anything. John and Councilor Miller agreed they wouldn't recommend going back unless we get the USDA to change their regulations on Colonias designation in which case it would be worth the trip for the mayor to go and make a presentation that we do qualify for the Colonias. John said this would be in a hearing setting and they would probably subpoena you. If that did happen John said it would be valuable because you could go and try to change their mind. That's worth eight million to us if we can get that changed. He said right now we've applied to the USDA and we have a Colonias application being held right now. He said he's also looking at another USDA grant to submit for at least a million. John said he was going to continue to try every little place he could find money and if Jay has a list of foundations we'll try to get a couple of those too. The bottom line he said was the State and Feds should be paying for this, they're the ones that laid it on us, no one else in the nation has a plant like us. Mayor pro tem Garrett asked if we knew if the USDA had actually written and attempted to get the Colonias designation changed? She said she knew Senator Domenici's office said they would and have. John said the only one he was absolutely sure about was Representative Pearce's office and has asked him for some follow up information. He said he hasn't heard anything more for about a month. Mayor pro tem Garrett asked John if it would behoove us to write a letter as a Council and Mayor to request them formally? John said a letter was sent about a month ago from the Mayor to the two senators and Congressman Pearce but no information had been received since then. Councilor Miller said she had seen meetings in Ruidoso where USDA representatives will come to your meeting and talk about funding. John said that was not what we need. He said we know what we want and that we qualify for the Colonias funding and every other federal agency except theirs. Unfortunately what we're trying to do is change their rule interpretation that is made in DC, not at the local level.

NEW BUSINESS

Mayor pro tem Garrett stated next item on the Agenda was consider approving recommendation of Extension of Hardship Variance for Tommie Quinley until change of circumstances.

Mayor pro tem Garrett entertained a motion to approve recommendation of Extension of Hardship Variance for Tommie Quinley until change of circumstances.

Councilor Hood moved to approve recommendation of Extension of Hardship Variance for Tommie Quinley until change of circumstances. Seconded by Councilor Miller. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion carried.

Mayor pro tem Garrett stated next item on the Agenda was consider approving skateboard park name "(K) (C) rown of the Downs."

Councilor Miller asked why we would spell crown with a "K"? John Waters said Bonnie Richardson was the Chair of the Parks & Recreation Board. They brought in a sign and a request to change the name of the park, they didn't know if they wanted it to be a C or a K. He suggested since Ms. Richardson was not here tonight that it would be prudent for the Council to wait and let her make a presentation. He said this was placed on the Agenda by the mayor after Bonnie went in and talked with him. It was first placed on there to approve the sign and then they backed off and wanted to look at the name, then the name spelling became a question. He said the last he heard from Carol was that Bonnie was going to go back and talk to some of her board members to see if they wanted a C or K. Councilor Miller said she would like to wait to get more information and asked if this was for the whole park? John said it was his understanding it was only for the skateboard park. John said his idea was to put a sign similar to that with the name on it next to the sign we already have so that it would match. He said she wants to make a presentation to the Council and that in 2001 the Council passed a park plan that didn't include a lot of signs and in fact he thought it had excluded a bunch of signs. He said it does present a target for kids with cans. John said it is an issue they would have to wrestle with and if they wanted to have all the information he recommended they wait until Ms. Richardson had the opportunity.

Councilor Miller moved to table approval of skateboard park name "(K) (C) rown of the Downs." Seconded by Councilor Hood. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion carried.

PUBLIC INPUT

Mayor pro tem Garrett stated next item on the Agenda was Public Input with a three-minute time limit.

There was no Public Input.

EXECUTIVE SESSION

Mayor pro tem Garrett 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: Forest Guardians Amended Consent Decree.

Mayor pro tem Garrett 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: Forest Guardians Amended Consent Decree.

Councilor Hood moved 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: Forest Guardians Amended Consent Decree. Seconded by Councilor Miller. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion carried.

Mayor pro tem Garrett closed the regular meeting at 5:57 p.m. and invited W.T. Martin, Jr., City Attorney, John Waters, City Manager and Carol Virden, City Clerk, into the Council Chambers after a five-minute recess.

Mayor pro tem Garrett entertained a motion to go back into open session.

Councilor Hood moved to go back into regular session. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion carried.

Mayor pro tem Garrett called the regular session back to order at 6:17 p.m. and asked that a member of the City Council attest to the fact that the only items discussed in Executive Session were that of threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7: Forest Guardians Amended Consent Decree.

Councilor Miller attested to the fact that the only items discussed in Executive Session were that of threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7; Forest Guardians Amended Consent Decree and no other items were discussed.

Mayor pro tem Garrett entertained a motion to approve Forest Guardians Amended Consent Decree.

Councilor Miller moved to authorize the mayor to sign the Forest Guardians Amended Consent Decree. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion carried.

ADJOURNMENT

Mayor pro tem Garrett entertained a motion to adjourn

Councilor Hood moved to adjourn at 6:18 p.m. Motion seconded by Councilor Miller.
Motion passed unanimously.

Susan Garrett, Mayor pro tem

ATTEST:

Carol Virden, City Clerk/Treasurer