

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
FEBRUARY 11, 2008

The Council of the City of Ruidoso Downs met in regular session on February 11, 2008. Mayor pro tem Garrett called the meeting to order at 5:30 p.m. and asked Joe Blaney 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:

John Waters, City Manager
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.

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 Holman. 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 28, 2008. Motion was made by Councilor Miller and seconded by Councilor Holman 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 Holman to approve Accounts Payable. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion carried.

UNFINISHED BUSINESS

Mayor pro tem Garrett stated next item on the agenda was Unfinished Business-Consider approving Skateboard Park Name "(K) (C) ROWN OF THE DOWNS."

Motion was made by Councilor Hood to table the item. Mayor pro tem Garrett asked if that was at the request of the Parks & Recreation Board? Councilor Hood said it was. Motion was seconded by Councilor Miller to table the item. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion tabled.

OTHER BUSINESS

Mayor pro tem Garrett stated next item on the agenda was Other Business and she asked John Waters to give a legislative update.

City Manager, John Waters said there were a couple of sheets provided to the Council and especially a brightly colored sheet titled "Total Estimated Funding Required to Complete Wastewater Treatment Plant." He said this had the current breakdown of grants to date that we have in our hands along with our bonds. It shows the amounts needed for each town and he said they could see we have 2.67 million that was similar to what we had before. There were some grant numbers that had been filled in and he said we were still awaiting the top two grants from 2007 because they had not been approved yet by the JUAB. City Manager said he thought they were scheduled to be at the next Joint Use Board meeting to have those grant agreements approved. The actual amounts on those grant agreements were accurate as to how much was needed. City Manager, John Waters said the second sheet of paper was a summary of HPRCHB the house bill for Taxation and Revenue Committee #43. City Manager, John Waters said it had passed both the House and the Senate. City Manager, John Waters said he had several notable items and was going to mention those for the Council to know. Item #33 was \$750,000.00 to plan/design/construct improvement to the Regional Wastewater Plant in Ruidoso in Lincoln County. Item #34 was \$750,000.00 to plan/design/construct and equip Regional Wastewater Plant in Ruidoso Downs. City Manager John Waters said we actually got \$750,000.00 for Ruidoso Downs, which was great considering Councilor Miller, Mayor pro tem, Garrett, and Councilor Hood would remember they announced it would be less than that. The Governor and legislators worked hard to put some money together and certainly if its 'signed by the Governor it would help our town out quite a bit. Item # 289 was \$105,000.00 to plan/design/construct and equip Phase III of the county owned domestic violence shelter in Ruidoso Downs, this was the H.E.A.L. Center. The County of Lincoln is their fiscal agent but he said it was nice to know they had some money on that list to finish their project. Item #290 was \$40,000.00 to plan/design/construct display building, park/walkway for the Hubbard Museum of the American West in Ruidoso Downs. This was for the building up on top at the museum we were working on. City Manager, John Waters said the status was that it had been through both the House and the Senate and they have

concluded it was awaiting the Governor's signature at this time. He said we were certainly hopeful the Governor would pass this because we need this money for the Wastewater Plant and of course the project at the H.E.A.L. Center and museum. City Manager, John Waters said we could certainly hope for this to get signed quickly so we could plan for adding \$750,000.00 and that would put our share at needed at right under two million. It gets it within striking range and from the grants we applied for really can take care of this if we're awarded even partial amounts on the USDA grants and Water Trust Board issue that we were looking at. John said HPRCHB was something we've worked hard for and we've been told that the funding this year was a lot tighter than in the past years and they still were able to come up with this amount for our community. He said that was the update on the capital outlay.

City Manager, John Waters said there was another bill introduced by Senator Ted Jennings to bring in some of the revenue that the State gets from the racetrack gambling. As he understood it had stalled out in the Taxation Committee and was having a hard time getting through. City Manager, John Waters said we've talked to some of the representatives of the track to try to put something together with them because they have a bill that they're trying to reduce the impact on the Ruidoso Downs Racetrack and Casino to drop their GRT or taxes they pay on their revenue to the State by a substantial amount. He said we talked to the lobbyists from that group and actually came up with a great tag team effort to where we could work together and try to accomplish getting our foot in the door while at the same time trying to get the track to pay less of an impact on their revenue. City Manager, John Waters said the chances were that these bills would not get very far but that next year we could try again. City Manager, John Waters said we were happy with Senator Rod Adair and Senator Ted Jennings by helping us out by introducing it into the Senate. There are a couple of other bills floating around and he said of course they were aware of the one that was passed in record time this year dealing with the overtime. City Manager, John Waters said that issue was really going to hit cities and the state itself hard because they basically took the 207K exemption that we have for emergency services, primarily the police and fire services and took them out and would only allow them to have 170 hours per month. That would classify anything over 160 hours a month or over 40 hours a week would be time and a half. He said it nullifies the federal law that allows for an exemption for governments so this impact wouldn't hurt the cities that bad. He said it went through in record time, about three days through the legislature and signed by the governor. City Manager, John Waters said our attorney, Mr. Martin discovered that error and it's fortunate he did because there were some cities that had groups in it that were ready to sue for that overtime. He said the Municipal League owes a great debt of gratitude to our city attorney who was astute enough to take it out of legislation and apparently the legislature let this slip by and they corrected it in record time. City Manager, John Waters said kudos go to our attorney for detecting that and helping us avert a big problem across the state and probably saved the state a lot of money. The impact alone from the state could be 35 million a year with all the overtime from state police and law enforcement. He said he thought the Municipal League had our impact at 23 or 24 million.

City Attorney, W. T. Martin said another impact would have been an adverse impact on the PERA contributions for the police and no one realized that would happen because of change in contributions were going down so it corrects that problem too.

City Manager, John Waters said there were a couple of other bills floating around, one gives firefighters who get any type of remotely related illness, it gives them the ability to collect on that well after their career. That is having a hard time getting through and he said he understood the labor folks and the governor and the Municipal League were trying to work through that issue prior to the next year so there's not the same impact. That would increase the self-insurers fund premium quite a bit if we had to cover folks ten or fifteen years out that got a disease or something remotely that they could have received as a result of possible exposure in the fire department. The language had to be tightened up quite a bit on that and they would be coming together to work up some type of agreement on that.

Councilor Hood asked if there could be a moment of silence for Mayor Bob Miller because he had a good recovery from surgery today. There was a moment of silence.

Steve Dunigan introduced the new Code Enforcement Officer, Gilbert Morales. He said Gilbert had been with us for about a week and comes to us from Roswell. Gilbert is a retired fire lieutenant from the City of Roswell and has quite a bit of experience and knowledge in building and holds a GB98. Steve said he thought Gilbert would do us a good job. There was a round of applause.

NEW BUSINESS

Mayor pro tem Garrett stated next item on the agenda was discussion and consider approving Resolution No. 2008-03 Mid-Year Budget Adjustments for FY 2007-2008.

City Manager, John Waters this again was the mid-year cleanup of line items that were running a little higher than expected or adding in revenues that we didn't expect to have. One of the items was the tanker truck that was awarded to us by the governor and we got the funding in for that so he said they would see the added revenue for that under the Fire Department. Another item was a \$14,000.00 reduction in Lodgers' Tax for the Visitors Center but that was from last year and was carried over. City Manager, John Waters reminded the Council that they had budgeted \$100,000.00 to build the Visitors Center this year, assuming we get someone to bid on our architecture. He said we had already put it out to bid once and would put it out again. At any rate he said we should be starting on that project and the \$14,000.00 was for the entryway sign that we were starting on as well. City Manager, John Waters said that finally got out for bid since the last Council and finally contracted sign maker who was willing to do it and had started on the project and they were going to let us know their timetable so that Mark's crew could do the electrical. John said it was going to be a red entryway sign coming into town and was going to be real nice. The design was brought before Council in 2006 and is similar to the sign at All American Park. It will be larger than that and two-sided and so when you're coming into town it welcomes you and as you leave it thanks you for coming. The main part of the sign has been ordered, the center, the wood part with the lettering. He said it had to be sand blasted. That's what the \$14,000.00 was for because it was a little bit more than expected so that money was moved down into there but he said we had that extra amount left and had that money budgeted out of the General Fund this year. Other than that he said you would see some minor things back and forth but really

no other major issues. He said we were watching our revenues closely and still need the Christmas check that we will receive next week on gross receipts. He said that's the gross receipts on the revenues gained around the Christmas season. Right now we've got a pretty flat gross receipts since the beginning of the year and were hoping the Christmas check picks up a little bit and we won't need a major revenue adjustment. He said in the third quarter, if the Christmas check was not great, we would come before the Council with a recommended revenue adjustment. Having no snow was affecting us and there weren't as many people here to ski. There is only one tourist organization doing that and that was our museum and that netted thirty thousand plus this last year. That is a credit to the folks at the museum. Unfortunately that was not holding us across the battle and we're seeing lower Lodgers' Tax and gross receipts tax.

Councilor Miller said she couldn't help but notice that we had to add \$30,000.00 to the Police Department for overtime. She asked if that was due to officers leaving and the shortage of officers? City Manager, John Waters said it was and the problem was having to cover the officers that weren't there especially when it dropped down to half. It did contribute to the overtime. There would be the ability to move the money from the regular full-time positions not filled to the overtime as time and a half and that would hurt the town. Today there were two new officers that reported to duty, two new certified officers and they would be at the next Council meeting to be introduced. He said it was a husband and wife that were moving from Rio Rancho. That would help quite a bit and would offset the officer we just lost to the fire position and thought we were down two officers. Councilor Miller said he didn't stay a week but Chief Ortiz said he stayed three months. City Manager, John Waters said there were still those two positions we were actively still pursuing. Fortunately we just picked up two certified officers, which was good for us. Carol Virden reminded John that was also for CDO's. John said they were still down two in the CDO's. City Manager, John Waters said he had figured it with the Mayor and figured two thirds of that was for the officers.

Mayor pro tem Garrett entertained a motion to approve Resolution No. 2008-03 Mid-Year Budget Adjustments for FY 2007-2008.

Councilor Hood moved to approve Resolution No. 2008-03 Mid-Year Budget Adjustments for FY 2007-2008. 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 destruction/disposal of unusable public property-Department of Public Safety.

Chief Ortiz said the items in question were a 1984 Ford FMC fire truck that has the considerable wear and it has an apparatus that would be extremely expensive to replace. He said consequently it would be of no use to our city at this time since we will be obtaining a water tender truck pretty soon and that's why they were putting it on the auction block. The other vehicle would be an International box truck that was donated by the U.S. government several years ago and has just been sitting in the Public Works parking lot. He said they had been able to use it and that it really had no practical use for them and was too big and

cumbersome for their use. Chief Ortiz said they had considered giving it over to Public Works but would need considerable repair and just was not conducive for their operations as well. City Manager, John Waters clarified for the Council that it was the old yellow truck and he said he thought it was Councilor Garrett and Councilor Miller would remember that we had it sent down to Artesia fire about four years ago to have it fixed. He said those parts to fix it were no longer available so it was basically out-mode and they were unable could not locate parts. He said we were waiting on the water tender and it was put out in October, about eight months, it's taken that long to get built and should be here in July. John said the other item from ICIP that we've sought funding for for over three years in a row now was a ladder truck and those were expensive, even to get a minor one. He said they were about three quarters of a million dollars for a new one although there were some used ones out there for about half of that. He said FEMA was usually the ones who awarded that. He was hopeful that eventually we would get one and that there would probably be a match of ten or fifteen percent but that was a small price to pay. Mayor pro tem Garrett said eventually everything reaches its date of obsolescence and that old fire truck had reached its time.

Mayor pro tem Garrett entertained a motion to approve destruction/disposal of unusable public property-Department of Public Safety.

Councilor Hood moved to approve destruction/disposal of unusable public property-Department of Public Safety. Seconded by Councilor Miller. 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.

Bonnie Richardson said she would like to commend this administration and this board for all the work put in to try to get assistance for our mind-boggling sewer problems. She said most people in Ruidoso Downs had no idea what a headache it has been and how much help we have needed and the stringent requirements that we are supposed to be meeting for the Wastewater Treatment Plant. She thanked Councilor Garrett for calling her and asking her to call Santa Fe to let them know that some of the citizens were aware of this and that the more people that called the better so they would know it's not just from the Council.

Gary Williams said he spoke with Mr. Waters about a situation in one of the drainage areas off of spring and John had conferred with Mr. Lewis. He said within three days it was taken care of. Gary said it was a real mess and water wouldn't have gotten through there if there was a big storm. He said it was in his area and he appreciated that they jumped right on it.

Jay Smith said he wanted to invite members of the Council and the public to the new exhibit that opened this week called "The Southwest Silver." He said it is efforts to get more of the collection out on display so there is some jewelry that hasn't ever been seen as well as some jewelry that hasn't been seen since the museum opened in 1992. He said he urged them to

come down, it was gorgeous and he couldn't take credit for it. He said their interior coordinator; Gwen McCausland did a remarkable job with it. Mayor pro tem Garrett said she had seen it and said they did a wonderful job.

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: CV-2006-337; CV-2007-225; CV-2007-254; CV-2007-359; CV-2007-420; CV-06-0477 RB/CEG; Wastewater Matters Forest Guardians; Wastewater Treatment Plant Settlement Agreement Issues.

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.

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. 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 6:00 p.m. and invited City Attorney, W.T. Martin, Jr., City Manager, John Waters, and City Clerk, Carol Virden, 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 Miller. 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 7:27 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.

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 and no action was taken.

Mayor pro tem asked if there were any motions.

Councilor Miller moved that the proposed letter dated 2-12-08, authorizing city attorney to send this letter to John Underwood as written, on construction funds. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Mayor pro tem Garrett, Aye. Motion carried.

Councilor Miller said there was one more action item and moved to instruct the law firm to review legal possibilities to bring in arbitration action to tie operational expense of Wastewater Plant operations to the amount of use of wastewater contributed by each community. 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 7:29 p.m. Motion seconded by Councilor Miller. Motion passed unanimously.

Susan Garrett, Mayor pro tem

ATTEST:

Carol Virden, City Clerk/Treasurer