

----- DRAFT -----
MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
MARCH 24, 2008

The Council of the City of Ruidoso Downs met in regular session on March 24, 2008. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Mr. Joe Blaney to lead the Pledge of Allegiance. Mayor Armstrong asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Hood
Councilor Holman

Councilor Williams
Councilor Olivo

Carol Virden, City Clerk/Treasurer informed Mayor Armstrong there was a quorum.

Also present:

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

APPROVAL OF AGENDA

Mayor Armstrong said next item on the agenda was Approval of Agenda. Councilor Olivo said before we approve the agenda wanted to make a correction on page 11, paragraph 2. He said there is a sum of \$93,000.00 for repair of the signal light, the correct figure is \$19,170.49.

Mayor Armstrong tabled Item J under New Business-Awarding of RFP No. 08-05 Professional Engineering/ Architectural Services for City Projects Ruidoso Downs, NM until next Council Meeting of April 14, 2008. Councilor Williams asked the reason? Carol Virden, City Clerk/Treasurer said the City of Ruidoso Downs put an RFP out a couple of months ago and the closing date was March 6, 2008 and we received twenty-nine responses to those RFP's for various projects and we have not had time to do a rank and a rating sheet on each and every one of those. She said it's going to take a lot of time and we will have it for the next council meeting.

Mayor Armstrong entertained a motion to approve the agenda.

Councilor Williams moved to approve the agenda with tabling of Item J under New Business-Awarding of RFP No. 08-05 Professional Engineering/ Architectural Services for City Projects Ruidoso Downs, NM until next Council Meeting of April 14, 2008. Seconded by Councilor Olivo.

Roll Call Votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Councilor Olivo said he would like to pull out Item 5 for corrections. That's on Resolution 2008-05 and since John Waters resigned we need to replace name with Carol Virden.

Mayor Armstrong pulled from 11-New Business Item D-Section 3 Plan for corrections and entertained a motion to approve the Consent Agenda .

Councilor Williams moved to approve the Consent Agenda. Seconded by Councilor Olivo. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF MINUTES OF ORGANIZATIONAL AND REGULAR MEETING OF MARCH 10, 2008.

Motion was made by Councilor Williams and seconded by Councilor Olivo to approve the Minutes of the Organizational and Regular Meeting of March 10, 2008. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLES

Motion was made by Councilor Williams and seconded by Councilor Olivo to approve Accounts Payables. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF MONTHLY REPORTS

Motion was made by Councilor Williams and seconded by Councilor Olivo to approve Monthly Reports. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

UNFINISHED BUSINESS

Mayor Armstrong stated next item on the agenda was Unfinished Business-Consider Approving Skateboard Park name "(K) (C)ROWN OF THE DOWNS."

Bonnie Richardson stated she was chairperson for the Parks & Recreation Committee. She said the committee asked the museum to put some drawings together for the Skateboard Park sign and said the committee appreciates the Police Department looking into the name and that "CROWN" with a "C" seems to be acceptable to them and the committee too. She said they would appreciate the Council's approval of "C" for the "CROWN OF THE DOWNS" for the name of the skateboard park.

Councilor Williams asked Bonnie Richardson if the Council approved this if she had discussed with anyone how the project would move forward? He asked what type of sign and where they want to put it?

Mayor Armstrong stated we need to entertain a motion to approve and a second for the Skateboard Park name of "CROWN OF THE DOWNS" before it can be discussed.

Councilor Williams moved to approve Skateboard Park name of "CROWN OF THE DOWNS."
Seconded by Councilor Holman.

Councilor Williams asked Bonnie Richardson if other than considering the name of the park if she had anything else to add to how it was going to be constructed, who's thinking about doing it, and the design is being done by the museum? She said one of the committee members did turn in the drawing that they selected to one of the local sign people and said she thought that was Carol's jurisdiction. Councilor Williams asked if anyone in the audience had any comments on that? He thanked Chief Ortiz for the input and said it was very thorough.

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

Mayor Armstrong stated next item on the agenda was Consider Confirmation to Mayor's
Appointments of Special Committees and Boards.

Mayor Armstrong stated under Appointment of City Special Committees and Boards was Item A-
Parks & Recreation Board. He asked Carol Virden, City Clerk/Treasurer if these were to approved
one at a time or all together? Carol Virden said they could be all together. Mayor Armstrong
asked if the Council had looked at the list he had for the committees and board member names?
Gary Williams said he had looked at them but wanted to ask the audience about some of the
individuals or if anyone else is interested. He asked Mayor Armstrong if he was totally
responsible for appointing these committees or if people can volunteer and be considered also?
Mayor Armstrong told Councilor Williams that he asked at the last council meeting that if anyone
was interested on being on any of the boards to come by to talk to him or bring a letter. He said he
went with the idea that they needed some new blood to changes things up and some of these
names are the ones that have asked and the other ones that he thought would be good on some of
the committees. Councilor Williams asked if he could give him the names he had selected
personally on these committees? Mayor Armstrong said it would be easier to go by each one then.
Councilor Williams said he just wanted to get these names in his head in case he runs into these
individuals that he can discuss and talk to them about anything and know what they're involved
with and have a better understanding of it.

Mayor Armstrong said under Parks & Recreation Committee he felt like Bonnie Richardson had
been there and wanted her there, the others pending he did not know, she had been there before.
It seems like the folks were pleased with what she was doing. Councilor Williams said he
understood what he was trying to do but just wanted to know the ones that he had not re-
appointed and just wanted the newer ones. Mayor Armstrong asked "on any of them?" Councilor
Williams said on ETZ. Mayor Armstrong said Wayne Williams, Thomas Chavez. Councilor
Williams asked if those were the only new ones? Mayor Armstrong said yes. Councilor Williams
asked if Wayne Williams was the chairman? Mayor Armstrong said no. Councilor Williams said
he wanted to make sure of the names on top. Mayor Armstrong said that would be up to the
boards how they do that. Councilor Hood said he didn't know in the past that we vote on all of
this ETZ Commission, he thought in the past that Ruidoso Downs only put three people on there
and then the Lincoln County Commission put three people and then the board elected one person
at large. Carol Virden, City Clerk/Treasurer told Councilor Hood he was correct in a sense. When
the ETZ was first created, the City of Ruidoso Downs did place their people's names in there, the

county did and then once they got together they elected one from outside the ETZ area if she was correct. She said three years ago they did the same thing, they had the same list and it was all approved by council at that time as well after the elections. Councilor Williams said the reason he's asking about this is there has been concern from the citizens out there about some of these individuals, nothing derogatory in any way, but their concerns about reasons for being on these committees. He said he just wants to clarify to ensure that everybody is comfortable with the fact that we have these new names on here and that these new names were selected by their desire to serve and obviously that we have an understanding that they are not appointed or put on these committees for any other reason. Mayor Armstrong said they were people chosen either by their willingness to be on here and by his thinking that these kind of people need to be different than the other ones.

They need to be able to speak out and be different and we just can't have all the same people on the boards all the time. There's only so many people who are really interested in serving on committees and boards for the City of Ruidoso Downs and he said he wasn't going to throw any names away. He said he feels the names he has given will serve this community very well. Councilor Williams said he wasn't trying to be a pain in the butt about it but wanted to make sure the people we have on these committees are willing to do the job for us and are on the committees because of that and for no other reason. He said that's the only reason he's questioning some of the names is because he's not familiar with them for one thing and he wants to make sure everything we've done so far is fair. He said he realizes the mayor has the authority to make the appointment but he wants to ensure his own comfortability zone to know these committees are being run correctly in the direction we want them to go with no outside interference and how they appoint their positions.

W.T. Martin Jr. said he might be able to help some with what has been mentioned here. He said some of the people were originally in the county and this is probably what Councilor Hood was wondering about. First they were in the county and then they were annexed into the City. He said this commission has not met for a long, long time. He said if he remembers correctly Larry Mulligan was in the county, he was sure he was, Sue Davis was, and he thought Leonard McCutcheon was and they were the county members. He said probably they were no longer in the county. He said he knows Sue Davis and Leonard McCutcheon weren't. He hoped that would answer some of the questions. Councilor Hood said if that was the case then we would be wrong. He did not see how we could vote on this until we had verification. He said it was a big concern and that it has to go back to Lincoln County and if Lincoln County is not picking their three people and then we pick more than three we're not abiding by the bylaws of that organization or committee and he said he read the bylaws.

Mayor Armstrong said he would continue and give the following names to the Council: Wayne Williams, Dean Holman, and Thomas Chavez. Councilor Williams said again, Councilor Holman, you brought up the fact that some of these individuals had lived in the county and we're not certain right now that they do or not regarding McCutcheon and Mulligan. Councilor Holman said he thought Carol Virden, City Clerk/Treasurer knows and on some of them he wasn't totally sure. Carol Virden said Sue Davis was in the city limits, Judy van Winkle, and she said she wasn't sure about McCutcheon. She didn't think he was but two years ago when we had elections the same process happened like what's happening now on the ETZ and they were all in city limits and that was an error on our part and we didn't catch it. She thanked Councilor Hood for bringing that to our attention. If the mayor wants to correct and go forward on this then he can appoint these

two people and then get ahold of the county. She said she would call Mr. Stewart tomorrow and they can certainly do what they need to do and the six people can elect their seventh member. Councilor Williams said he didn't know what to expect because he didn't know Mr. Williams, he does know Mr. Holman and Mr. Chavez but that he wasn't comfortable with it. Mayor Armstrong said Mr. Williams was here today and sitting in the second row. Mr. Wayne Williams asked Councilor Williams if he would like to ask him something? Councilor Williams asked if he would like to be on that committee? Mr. Williams said Mayor Armstrong called him and asked if he would like to serve on that committee and he said he would more than like to serve the city. He said he didn't have any pre-plans and had an open mind, but as to whether or not Councilor Williams knew him . . . Councilor Williams said it wasn't anything personal. Mr. Williams said you brought the subject up that you didn't know whether I could serve and the point being I didn't know you when you ran for office you're holding and I had to vote for you anyway. Mr. Williams said he would do whatever he thought was best for the City of Ruidoso Downs regardless of who or what comes up. Councilor Williams said that was what he wanted to hear, what was good for the Downs. Mayor Armstrong wanted to just make note that he was here.

Councilor Hood said it looks like there's quite a bit of family on the Planning & Zoning Commission. He said you've got Corena Baca and then Pete Baca on there. He said, "aren't they family?" Mayor Armstrong said they were. Councilor Williams asked if there was anything addressing that? Carol Virden, City Clerk/Treasurer said she didn't believe so. Councilor Williams asked if that occurred in the past in any other committees? Mayor Armstrong said the last Planning & Zoning, he said he didn't remember any there. Councilor Williams said he would like to find out a little more detail on that one before they continue any discussion on that on those two. He wants to be sure it's legitimate and that we're not doing anything outside the lines that would be construed as bringing in people that might influence how that committee is run.

Mayor Armstrong asked Carol Virden if he could vacate one, take one of these family members off. He said he knew that they ran for a long time with eight members. He said he would take off Corena Baca. Councilor Williams said with the rest of them he had no other problems.

Mercedes Fernandez-Wells came forward and stated she was the chairperson for the Economic Development Board. She told the mayor and council in looking at the recommendations that she wasn't sure if they were aware of the ordinance that one of their committee members has to be the president of the Chamber of Commerce and that person was not on his list. Mayor Armstrong said he wasn't aware of that. She told the mayor their current president was Jim Strain. Mayor Armstrong asked if they have to live here and she told him yes but most likely he would be moving soon and more than likely they would replace him with someone that lives here. She said actually they don't have to live here or be a part of the Downs. Carol Virden, City Clerk Treasurer said all of them have to be. Mayor Armstrong said he knows all of you have done an excellent job and he's had some other people that want to be on that one but wasn't aware of that. Mayor Armstrong asked if that would be vacant? Carol Virden said until a member of the Chamber of Commerce comes forth. Mercedes Fernandez-Wells said will be holding a meeting on Friday. Carol Virden said she thinks what the mayor was asking if a member of the Chamber of Commerce is a part of the Economic Development Board? Mercedes said the ordinance specifies and Carol Virden asked if Friday was the meeting? She said yes and they would determine who was going to be their president if Jim was really leaving.

Mayor Armstrong said he would take Pappy Bell off , that member will become the president of the Chamber of Commerce for the City of Ruidoso Downs, whoever that may be. We'll give Pappy a rest.

Mayor Armstrong entertained a motion for confirmation of his appointments to Special Committees and Boards.

Councilor Williams moved to table this process and Mayor Armstrong's appointment to Special Committees and Boards until everything we have done is completed, that all the names are where we want them to be and any possible additions or anything we may have until the next meeting. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

OTHER BUSINESS

Mayor Armstrong stated next item on the agenda was Other Business and items are for discussion only and und Item A was Sharon Paul-Escondido Hills.

Sharon Paul introduced herself and said she was a resident of Agua Fria Subdivision in Ruidoso Downs. She said she appreciates the opportunity to be here tonight. She said she submitted a packet to them with a chronology of events that happened and was not going to read that, it was for their information because it's been ongoing since 2004. She said she was going to hit some of the highlights and make a request. The Country Club Tract is 7.23 acres in the Agua Fria Subdivision and was annexed January 1, 2004 into the City of Ruidoso Downs. It was called the Country Club Tract because the original surveyor was going to have a golf course out there and he asked adjoining residents if they would mind having the country club on that tract. The developed course never materialized. In July or August of 2004 there were some requests brought before the Planning & Zoning Committee to change the zoning for the Country Club Tract from R1 to C1. At those meetings the residents of Agua Fria, there were twenty two letters sent out, nineteen of the adjacent land owners were opposed, nineteen of the twenty. These letters to the Planning & Zoning meeting with people who were opposed to the development because it was town homes, fifty two units and town homes, that is not a Country Club. We had issues with if this was in violation of the covenants. The developers Sue and Verble Davis went back, were told to get a Planned Unit Development, as there was no actual zoning in the area at the time. They went back and developed their Planned Unit Development and submitted it to the City for consideration. There was a lot of opposition from the residents in Agua Fria to this development. The residents of Agua Fria were told that the City does not enforce restrictive covenants but in the Planning & Zoning minutes for the meeting with us was approved, the covenants were considered on the side of the developer because they said a country club was a business, a hotel or a bar the covenants stated so it was a business and so it was commercial property. That was one opinion, that wasn't the homeowner's opinion it was the developers opinion so the City sided with that. So they said yes, it was a commercial property so this was it even though the surrounding properties were single-family homes, residential homes on large lots. Then it went to city council on September 2004 and again met with opposition and again it was approved. Because of the amount of opposition it had to be approved unanimously and it was. In November of 2004 the property was sold, Verble Davis sold it to Clif Rowe. The Griffith Park Townhomes plat, which was Sue and Verble Davis's development, was never submitted to the county clerk in Carrizozo. She said ordinances on that were never met, they never submitted a bond to the City. There are ordinances

that she sited for final development plan approval that were never met for Griffith Park Townhomes. Then when the property was sold that subdivision was never registered with the county clerk, which is required by state statutes so it was an illegal transaction against state statutes as sited in the chronology that she provided. In August 2005 Mr. Rowe got a loan from First Savings Bank before it was even approved by the council. In September of 2005 again a new plat, Escondido Hills, which went to single-family homes, triplexes, duplexes and sixplexes and the road was moved was resubmitted to the council. It was decided that was a big change from the Griffith Park Townhomes plat and so it was okay to bypass Planning & Zoning process again and go straight to the council with it. So, that's what happened and again the residents of Agua Fria opposed to it, planning fifty-four units on seven acres in the middle of this subdivision of single-family homes on large lots. But she said, it was approved and was in violation of your own ordinances; there was no bond collected. She said an engineer employed by the City said no they don't have one but one should have been contacted the utilities layout, the sewer layout, the drainage layout, and you can tell right now that every time it rains it was not done. Right now, on March 31, 2006 Mr. Rowe started clearing that land and leveling that lot. She said she submitted some pictures to them of what it looks like today and said it was a mess. Since then the residents of Agua Fria have had to live with seven acres of exposed soil that blows as dust in the springtime and flows onto Parkway Road as mud during seasonal snowmelt and rain events. The removal of topsoil has left steep cut banks three to seven feet high that now threaten to erode to the property line. There is water pipe and other construction materials are all over the property. There is an open ditch at the back of the property that was dug for water lines that was never put in. It's a big, ugly eyesore and a scarred landscape in the middle of our subdivision that's been there for two years. She said she know the City has had to go in and clear off Parkway, clear mud off Parkway because it was flowing onto the road from the subdivision. She didn't think her tax dollars should have to pay for that; the developer should be doing that. She said she also submitted a letter from Brian Roberts who could not be here tonight because he's in Phoenix, he builds large projects, he's a construction superintendent. He submitted a letter letting you know that organic debris has been buried out there, the City did it when they dismantled the dam and that's when Sue and Verble owned the property, the water rights were transferred to the City. A City employee on City time took a bulldozer out there and destroyed the dam and buried large trees, organic matter. Then again Mr. Rowe removed all the vegetation off the site and buried the majority of it on site. You cannot build houses on that now.

Sharon Paul said she was making a request tonight and stating that no ordinances have ever been met with the proposed plat. It should have been unapproved. She is requesting to pull all permits issued by the City of Ruidoso Downs pertaining to this development because it's an unimproved PUD. She said she is requesting that the developer seed in the area because there has been nothing going on on that site for months now and there's still a lot of bare soil that's just eroding. She would like to see us have the developer seed the site into grass, stabilize the soil, or fine him daily until it's done. She said she requests also to remove any zoning for the area until the litigation over the restrictive covenants has been settled. The residents of Agua Fria formed a homeowners association and are currently in litigation with Mr. Rowe over the restrictive covenants. Until that is settled she would like the City to consider these actions and not give any more permits in the area until it's settled in court as to what can be done on that site. The developer should have an engineer if they want to build on that site to review and not the taxpayers. She said that was her requests and said she knew they weren't going to take action but the City did approve the

subdivision in violation of state laws and their own ordinances and now the City needs to do right by the residents of Agua Fria.

Mayor Armstrong stated next item on the agenda was Chief Ortiz, Director of DPS.

Chief Ortiz said he wanted to take this time to thank Wal-Mart for a generous donation that they gave us last week. They presented us with a check for one thousand dollars to the Department of Public Safety. The funds are to be used for the Crime Scene Technician that we created in January and those funds will be used to buy photographic equipment and badly needed equipment for this department. He said we appreciate that and Wal-Mart also donated two Dell computers for the Crime Scene Tech and one for the Police Department. He said one of their computers crashed and Wal-Mart was generous in donating two computers to our department and said he appreciates them giving us these donations. In addition he wanted to thank all the members of our community and Mr. Tommy Hood especially for allowing our Crime Scene Technicians, State Police, the county Sheriff's Department, the City of Ruidoso Downs and Lincoln County Emergency Management for setting up the Senior Citizens Center this last week and helping us in our quest to hunt and find a fugitive. Certainly all the members of our community need to be thanked for their support in helping our agencies in trying to locate the fugitive. We continue to do so and a quick update on the deputy's condition, he is recuperating in El Paso and sends his thanks to all the community for their support. He can't say enough of how many cards and letters of support and flowers. It will be a lengthy recuperation but he's hanging in there. He wanted to thank all those in the community for their help in the search.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was presentation and consider approving City of Ruidoso Downs Audit FY 2006-2007 Ronnie L. Hemphill CPA.

Ronnie Hemphill said they completed the audit in November prior to the due date of December 1st. The state auditor submitted it finally. The state auditor reviewed it on September 4th and January. He said if it wasn't for Carol Virden and the timely phone calls we might not be sitting here tonight. He said Carol kept on their tail and got it done. He thanked Carol and said they wouldn't even return his phone calls but she got it done in one day. He said everyone should have a copy of the audit report and for the guys that are new normally you can skip through this pretty fast, we could spend a couple of days if we wanted to but he didn't think they wanted to. He said he would skit through it fast and to stop him if they had questions.

Ronnie Hemphill began on page six of the audit report with the Main Opinion and Unqualified Opinion. He said the City did get an Unqualified Opinion. Beginning on page 8 and continuing through page 11 is the Management Exception Analysis. What you have in those pages is a summary of everything that is presented behind. It's an attempt to put it in more layman's terms but by the time they get through telling us everything we have to put in there it's kind of confusing too. He encouraged them to read that if they haven't read that, it's good general information and presents comparative data to the prior year also. Beginning on page 12 is the beginning of the numbers part of the financial statement presentation and continue on until page 24 which is the beginning of the notes to the financial statements. They have some notes in other areas that you can read to get some background to some of the numbers presented earlier. Then, something that you're probably most interested in, on page 76, the current year findings and recommendations.

Audit Finding 07-A (year ending 2007) Collection of Utility Receivables:

Ronnie Hemphill said what they found when they arrived was that utility past due accounts were and total accounts receivable were continuing to rise so they felt like it was a lack of enforcement of regulations and policies that are well established as far as collections. What they found as far as past due accounts and he said he was referring to accounts ninety days old and older and not just someone who is late on a current payment but seriously past due accounts rose from \$16,700.00 at the end of the year 2005 to \$22,700.00 for the year ending June of 2006 to what was then current as past due to \$33,181.00 at June 30, 2007. He said you could see the trend there and it was a disturbing trend. He said we presented that and little did he know that about a week before they showed up that Carol and her staff had noted the same thing and had already taken corrective action and was too late to get it fixed before they showed up. That's the good news, they did find it and were working on it but he felt it was a substantial finding and needed to be presented.

Audit Finding-2nd finding: Auditor Compared Financial Statements

Ronnie Hemphill said this was a new requirement for years ending June 30, 2007 and later and that if you don't prepare your own financial statement it's a mandatory finding. He said it's the most ridiculous for small governments but the state auditor says we have to do it so we have to do it whether we like it or not. There is no way that a city/village this size can justify to have one of their staff to prepare the financial statement. He said it's unfortunate that you're stuck with a finding, it's not fair, but nonetheless you got it.

Ronnie Hemphill asked if there were any questions? Councilor Williams said it was very thorough and very entertaining to him, especially in the revenue section. He said we're doing okay and very healthy right now and we have a lot of assets to work with and it was very positive for us.

Ronnie Hemphill said we're doing very well financially and were blessed to have a good staff even though they may not be ready to prepare this financial statement but they do everything else very well, it's easy to come in here and do an audit. You ask questions you get answers.

Carol Virden, City Clerk/Treasurer said she would like to thank, and said she does this every year, Terri Mosley works hard on the finances and she keeps the books straight and if the directors have a question with their budget she will discuss it with them.

Councilor Holman said if he understood right and we were going to be required to prepare this by state statute but every other small community will also, so there may be strength in numbers and they might just find us all. Ronnie Hemphill said they won't find you they'll just make it a mandatory finding. You'll have it every year until they change the rules.

Peggy Burton asked who "they" was that we have to prepare the audit for? Does that mean that this city will have to hire and put another person on staff and if so what will that salary be? Ronnie Hemphill said "they" is the state auditor's office and he says he gripes about them a lot but they do take their job seriously and they try to enforce accounting and auditing principles to the best of their ability and a serious interpretation of standards and he said no, you shouldn't hire another person you should just continue to have an auditor prepare these statements and be prepared to have an audit finding for doing so.

Mayor Armstrong entertained a motion to approve City of Ruidoso Downs Audit FY 2006-2007 Ronnie L. Hemphill CPA.

Councilor Williams moved to approve City of Ruidoso Downs Audit FY 2006-2007 Ronnie L. Hemphill CPA. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Presentation of Lincoln County Transit Award-Mickie Compton.

Mickie Compton gave a short summary of the award for the Lincoln County Transit that will be awarded in Santa Fe on March 27, 2008. The summary was as follows:

Mickie Compton introduced herself and said she owns and operates C & C Consulting. She was contacted by the previous administration at approximately this time last to consider applying for a public transportation grant through the New Mexico D.O.T. She said they did so, worked on it, and submitted the application in May of last year and then made a presentation to SERPO (Southeastern Regional Planning Organization) and it was a very competitive grant. They were short on funding however we did very well; we came third in our region which is very good considering it would be a new service. She said she received the results from the statewide funding results and presented that to the mayor and council. She said they applied for two grants, a 5311 Program Grant which is public transportation, it would be utilizing passenger vans to service the community and citizens of Ruidoso Downs and the Village of Ruidoso with a minimal fare and the total grant for that grant request for that program was \$381,228.50. At that time she requested three vehicles. The D.O.T. changed the ruling and only authorized one vehicle per sub-grantee in the entire state. The capital for that amount went down and she said she was assuming they all got a packet with the funding approval. We were funded for the administrative portion and the operating portion at one hundred percent. The capital portion we are funded one hundred percent for a vehicle and one hundred percent for other items that are capital to the sub-grantee. The difference is the vehicle is capital to vendor so that's where we just provide the match-money to the vendor that the state contracts with. The other capital that we received was one vehicle, we received \$42,000.00 for a vehicle, we received \$800.00 for the mobile radio, \$1,200.00 for a base station, and \$1,000.00 for a computer. That is the capital expenses we were awarded. On the administrative portion, which includes the manager, clerk, utilities and items of that nature we asked for \$154,650.00 and we received it. On the operating we asked for \$113,978.00 and we received that as well. Our total request was for the administrative and operating was \$268,628.90 and that would be at one hundred percent. In addition to that we applied for a grant called 5317 that's a new grant, it's a new Freedom Program. What this program is for is it runs in conjunction with the 5311 program, they provide capital and to our surprise they provided operating and administrative cost, they just call it operating. When we originally applied for the grant she was told that the operating cost was not available and all they were providing was capital. They applied for one vehicle and received that as well. However, they did contact her prior to the award and said they did have some operating money and they awarded them \$100,000.00. So, they were awarded not only one hundred percent for the vehicle but also an additional \$100,000.00 for operating to assist with fuel and a driver's salary. She wanted to present the grant award and said we did very well, they are very excited, they would love to see public transportation in the Downs, the Village, and countywide. She asked if there were any questions?

Councilor Hood asked Mickie Compton when the grants would actually be issued? When would they have some type of system running if it goes like she thought it would? Mickie Compton said she would be going to Santa Fe on Thursday to receive the formal award. It's a reimbursement grant and at that time she would need to meet with the mayor and council on how we want to proceed from there. It needs to be a joint venture with the Village and hopefully the County. We have to take into consideration we will only have three vehicles to work with in the beginning. They asked for three on the 5311 program and they only gave us one. She believes the Downs has a vehicle that was donated by W.I.A. They will receive another vehicle through the 5317 program so that's a total of three vehicles and it will be really difficult to do a countywide service the first year. However, we can have a good service start with three vehicles. She said she just needs to meet with the council and mayor on how we want to proceed because all of this is contingent upon the Village buy-in with it as well.

Councilor Olivo asked if there will be lifts for handicap? Mickie Compton said every single van will be handicap equipped. The 5317 van, that program was designed to assist the 5311 program with ADA individuals as long as we don't go outside the boundaries of the ADA requirements. We can utilize those for public transportation as well as ADA. Councilor Hood said they would like to thank her for all of her hard work. Councilor Williams said they knew she would do that and thanked her. She said at some time she would meet with them and we'll decide how to proceed.

Mayor Armstrong stated next item on the agenda was consider approving Resolution No. 2008-04 Authorizing Signatures of the City of Ruidoso Downs Accounts with Financial Institutions.

Motion was made by Councilor Williams and seconded by Councilor Olivo to approve Resolution No. 2008-04 Authorizing Signatures of the City of Ruidoso Downs Accounts with Financial Institutions. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was consider approving Resolution No. 2008-05 City of Ruidoso Downs Section 3 Plan.

Councilor Olivo said we made the correction on that and replaced Mr. Waters with Carol Virden so therefore he said he would make a motion for approval. Seconded by Councilor Holman.

Carol Virden, City Clerk/Treasurer said what the Section 3 Plan is a required document for municipalities in order to file for Community Development Block Grants. The last time the City of Ruidoso Downs administration adopted one was in the beginning of our first process of CDBG grants and she said she believed that was in 2002. This is just an updated version of that. It is complying with Section 3 of the Housing and Urban Development Act of 1968 and:

"requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and to contract for work in connection with the project be awarded to eligible business concerns which are located in or owned in substantial part by persons residing in the project area."

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

Mayor Armstrong stated next item on the agenda was consider approving Resolution No. 2008-06 Vacating of Certain Property.

Steve Dunigan said Planning & Zoning had a request from some landowners in the City of Ruidoso Downs to vacate an alley. They own property that surrounds the property and the two owners, Lincoln Transportation is represented by Mr. Mark Bryant and Mr. Chester Smith and they did sign a petition to ask for that vacation. They did have a hearing before the Planning & Zoning Commission and asked the chairman of that commission Mr. Paul van Gulick to bring them up to date on the Agenda Briefing Memo that was prepared.

Paul van Gulick said as a little background, some of this is in your Agenda Briefing Memo, but within the last few months we've had several requests come to Planning & Zoning for vacation of right-of-way of one kind or another and one is vacation of encroachment and another vacation of an alley. He said it occurred to us that they didn't really have a policy to do that and he knows that Ruidoso for example has essentially a thing where you purchase the property, submit a plat and show the square footage of what you're trying to purchase and then that goes to a hearing and gets approved. He said he found a few other cases of that but for the most part it makes a lot more sense and seems more common for municipalities to decide whether or not a particular right-of-way has anymore use to the city and its residents and whether to treat it as a commodity. He said he was also aware of some court cases have resulted and some of them nearby too where someone has bought a right-of-way in a configuration that has turned out not to be the same as what would have happened by state statute if it were vacated, half one side half the other. As property becomes valuable that becomes a real question and that becomes the same question for us as to whether or not it's a piece of right-of-way that has development value or not. If it has value to the city then the city should sell it to whoever wants to bid on it otherwise it's just a matter of whether or not it is of any use to the city. He said he personally doesn't think it should be treated as a commodity. There's a lot of questions that come up if there is an encroachment into a right-of-way and his question always is was the right-of-way surveyed or only the piece of property surveyed? With some of this in mind he said he talked with Steve Dunigan and with our attorney who then went and did a lot of his work and came up with essentially a method by which we could consider how to dispose of right-of-ways or whether to dispose of and ultimately how it is disposed of. This is one of those cases that passed all the tests, whether it is a true alley remains the key and nobody is denied access to their lot as a result of getting rid of this. It doesn't look like there would be any infrastructure placed in that alley at anytime in the future which is a big question in vacating right-of-way in terms of whether we need it now but the real question is how about twenty years from now? He said this is ultimately of no value to the City and should therefore be vacated and our attorney has done some fine work on that and has come up with a way to do that to vacate from a simple point of view however state statute dictates how the interest goes and reverts back to the adjoining owners. He said we simply vacated, it's not replatted and it's the fairest way to do that. He said having looked at this and considered it, it is their recommendation that the City go ahead and vacate it. There was staff review and they also felt there was no use.

Councilor Williams asked if this was our first shot at this? Paul van Gulick said he thought there was one other case where the City gave an encroachment agreement as opposed to vacating right-

of-way and this was the first case he was aware of where we are vacating right-of-way. Councilor Williams said he drove by the property two or three times and said nothing goes through there, it's just a piece of property. He said he just wants to make sure when we start this that we can back it up. Paul van Gulick said the procedure is pretty thorough and the mustard that it has to pass is high enough that when we ultimately vacate something it actually has no further value. Councilor Williams asked if the City benefits from this, do we get anything financially? Paul van Gulick said that is central to the question, the City has no use for it. Sometimes it's called a fee but it's also tied to a valuation of the property based on the current market and he said he finds that dissimilar to selling it and once again he thought it was a question of can the City properly sell a right-of-way without letting it go out to bid. Councilor Holman asked if we would also relinquish any future liability? Paul van Gulick said absolutely and it's actually a very specific action our attorney is requesting, it's a vacation of the original plat. That plat is created and roads are dedicated and the legal interest in it reverts back to the adjoining owners in a very well defined way. There will be some cases in the future where the City would be willing to vacate the right-of-way but not the easement. The only affect it would have on the property owners is their lot line would then extend to the middle of the vacated right-of-way, the easement would remain but it would affect their setbacks. A developer who is trying to put an addition on their property it would affect how they could develop it and yet the City in some cases where there are existing pipelines and access wasn't through there necessarily the right-of-way could still be vacated and the easement remain.

Mayor Armstrong entertained a motion to approve Resolution No. 2008-06 Vacating of Certain Property.

Councilor Williams moved to approve Resolution No. 2008-06 Vacating of Certain Property. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Designation to Southeastern New Mexico Economic Development Board.

Mayor Armstrong nominated Councilor Williams to sit as member of the Southeastern New Mexico Economic Development Board and entertained a motion.

Councilor Olivo moved to confirm Mayor Armstrong's appointment of Councilor Williams to the Southeastern New Mexico Economic Development Board. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was consider approving Personnel Recommendation-Position-CDO-Layla Reyes.

Chief Ortiz said this recommendation for employment is for Communication/Dispatch Operator and is a vacancy we've had for some time and this is a recommendation to consider hiring Layla Reyes.

Mayor Armstrong entertained a motion to approve Personnel Recommendation Position CDO-Layla Reyes.

Councilor Hood moved to approve Personnel Recommendation Position CDO-Layla Reyes. Seconded by Councilor Williams. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was consider approving Personnel Action Record -DPS-Crime Scene Technician.

Chief Ortiz said this is a Personnel Action Record to recommend an hourly salary increase for Mr. William Dunlap. He is our Crime Scene Technician. This position was approved back in January. He said they took a CDO position and converted it to a Crime Scene Technician position. Consequently Mr. Dunlap has received a certification for this position and we are requesting an hourly increase for this position. Councilor Williams asked what the hourly increase consists of? Chief Ortiz said fifty cents an hour.

Mayor Armstrong entertained a motion to approve Personnel Record DPS-Crime Scene Technician.

Councilor Hood moved to approve Personnel Action Record DPS-Crime Scene Technician. Seconded by Councilor Williams. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was consider approving P & Z Recommendation-P & Z Case #2008-03 Lincoln Transportation Approval of Zoning Change from C-1 to C-2 District of Lots 16, 17 and 18, Unit 1, Block 3 of Palo Verde Subdivision.

Paul van Gulick said this one is pretty straightforward and didn't have much to add to the Briefing Memo. He noticed representatives from the business were here but essentially it was an ongoing business that is now leasing the building along the highway that wants to now move one block into property they own. The way it is set up now is C along the highway and C1 is a block in and then residential. The intention of that is to provide a systematic transition from higher to lower density commercial use. In this particular case it turns out that all the commercial traffic will be directly off the highway and into the property and will be more a neighborhood scene. He said it is kind of a mixed use area and there were no objections to it. They will be continuing the same business; there haven't been any complaints about noise or anything.

Councilor Williams said he noticed of all the letters sent out that a lot were out of state and asked if he got responses from all of them? Steve Dunigan said when they sent these letters out as they were required to we received no negative responses from any of the owners and there was no attendance at the meeting for in favor of or in opposition. Councilor Williams asked if there were any responses from out of state? Steve Dunigan said they did not and it would be most likely if they were in opposition but they got none at all. Councilor Williams said the reason he asked this was because sometimes if the mail is certified and the owners are on vacation they don't get it and then don't have a chance to respond until after the fact. He asked if it was sent regular mail? Steve Dunigan said in this case it was certified. Councilor Williams said he didn't want it to come back later on that we didn't do something on our part. Steve Dunigan said that was certainly something we could look at taking a little extra time so we would know it arrived and a return receipt. Councilor Williams said he wasn't familiar with Lincoln Transportation.

Mark Bryant introduced himself and said he was from Lincoln Transportation and we run your school buses for you. Councilor Hood asked how many school buses they have now? Mark Bryant said they have twenty-three routes and about thirty buses in their lot and includes the activity trips they run for the schools. Councilor Williams asked how many buses would be on this new part of the land? Mark Bryant said actually there would be no school buses on this new plat. They used to be there, they pulled out and they are now east of town. This will be only Lincoln County Collision that we're providing use of the property. Councilor asked if his business would be directly involved in this? Mark Bryant said no.

Mayor Armstrong entertained a motion to approve P & Z Recommendation-P & Z Case #2008-03 Lincoln Transportation approval of zoning change from C-1 to C-2 District of Lots 16, 17, and 18, Unit 1, Block 3 of Palo Verde Subdivision.

Councilor Hood moved to approve P & Z Recommendation-P & Z Case #2008-03 Lincoln Transportation approval of zoning change from C-1 to C-2 District of Lots 16, 17, and 18, Unit 1, Block 3 of Palo Verde Subdivision. Seconded by Councilor Williams. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was discussion and approving position of Payroll/Personnel. He said this was a position he had asked for to reorganize the City. He said he is using Carol Virden in a lot of different ways other than just what she was doing. Also, back from Steve Dunigan he will be giving him a lot of different kind of work and these positions are split up so he wanted to put them back together underneath Carol Virden which is the record keeper so we can look at that a little better. This will give Carol a little more free time and it will give Steve Dunigan a little more free time to do some of the other changes that he has down the road for the Public Works Director. He asked for discussion.

Councilor Williams said he wasn't understanding where he was going with this. He asked if it was reorganizing positions and what responsibilities were going to be reorganized? Mayor Armstrong said this person would be handling exactly what's here. This was a position that was taken away in the past and he noticed that taking it away created other problems. If you were an employee and you had to come in to see Steve's office you would run off the public because they weren't able to talk at that time. This would help out with Steve and Carol's time because she has been directed by me to do other duties right now that she wasn't doing in the past. Councilor Hood asked if we were taking it away from Steve? Mayor Armstrong said he had two things, payroll and personnel. Councilor Hood asked who we were giving it to? Mayor Armstrong said he wanted to create a new position that would combine these two. Councilor Hood asked if we were going to consider applications for it because they didn't have anything in their packet and they were going to have to vote on it tonight. He said it didn't explain to us in the packet that we were going to create a new position. Carol Virden said what the mayor is bringing forth is that Steve was Payroll/Personnel in 2006. When Mayor Armstrong resigned Mr. Waters split the position of Payroll and Personnel giving Personnel to Steve and was appointed by the mayor to sit as Planning & Zoning/Personnel and she was given the duties of the Payroll department. What the mayor wants to do now is he is looking at giving them additional duties and combining the positions into one. Councilor Williams asked if the additional duties were stepping into the position that's vacant right now? Mayor Armstrong said it may in some areas and we need to look at the idea that we may not have

a manager. We may have an administrator, which is a totally different type of government. What we need to have the people handle things that are happening in the City more. He said in Steve's office the personnel records are there and they need to be controlled. Councilor Williams said he would rather not continue discussion on this until we have everything in black and white where he can see it and know what's going to go where and who's going to get what. He said he didn't want the position the mayor is considering that is vacant right now and that would be City Manager/City Administrator the responsibilities of that position is not being subtracted to add to Mr. Dunigan or Carol Virden.

Councilor Williams said he would like to table discussion on this until they have further information on what's going to happen. Seconded by Councilor Hood. Councilor Holman asked if they do this would they be okay until the mayor makes a decision? Mayor Armstrong said he believed so. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong said next item on the agenda was discussion of adopting a Severance Pay Plan.

W.T. Martin Jr. said they had in front of them for consideration an issue of whether or not to adopt a Severance Pay Plan for certain employees of the City. They have in front of them a draft of a proposed plan. He said it is purely a draft for discussion only. He said what they are being asked to consider is adopting a Severance Pay Plan to be applicable to the at-will employees in the City. This would mean basically your department heads. All would be eligible for participation in a Severance Pay Plan if they meet certain criteria. The primary criteria would be they have to have five years of service with the City before they would become eligible to participate in the plan. They would have to opt-in to the plan and it would not automatically apply to them. The plan would be available to them if they chose after five years of service to participate in the plan and they sign what is called "Joinder Agreement" to participate in the plan. The consideration that they had to do this evening is to number one, decide if this City wants to adopt a Severance Pay Plan, to whom will that Severance Pay Plan apply, and what should be the criteria for eligibility. The other thing that they will have to consider and determine is what would be the terms of the plan as far as the severance pay that the individuals would be entitled to. He said he gave them a spreadsheet using one particular city employee and giving examples of three months of compensation, six months, nine months, and twelve months. From that illustration the numbers one is looking at if that person ever became eligible to collect severance pay. For purposes of information he also added into the chart what would be cost in relation to the group health and hospitalization as a part of the Severance Pay package. The City, under this plan could keep the individual on the group plan for a certain time period. He said he put this in to see what the City would pay under cobra and you can see that the cobra cost is substantially higher than what the payments would be back into the group plan if that can be done. He said if they look at the proposed plan it does have certain events that would trigger causing a payment of severance pay. He wanted them to understand that just because they adopt a plan doesn't mean they will every pay a dime under any of these severance plans. A certain criteria have to be met before you are liable to pay on a Severance Pay Plan. If you adopt a plan and you know what the seniority is of each of the individual department heads you can budget in advance for the potential severance pay. He asked conceptually why would you ever adopt a plan in the first place? What's taking place across the country with employers in the public sector is that Severance Pay Plans are becoming very prevalent and being given to the management level that is a part of their compensation package. It

is also a recruitment tool. Most of the cities in New Mexico are giving their people Severance Pay packages. He said he knows the Village of Ruidoso has a Severance Pay package for its city manager. The City of Ruidoso Downs will have to compete in the marketplace. The reason most of these Severance Pay packages are adopted is because the employers feel it is fair to the employee. If something happens to that employee that is beyond his control that causes them to lose their job it's intended to give them compensation to tie them over for an interim time period that they go out and find another job. An at-will employee can be terminated without cause and they don't have the protection that your employees below upper management have that is built into the law.

Councilor Hood asked if this was the same Severance Plan that he brought forth in the past except with a few modifications? W.T. Martin Jr. said this was probably the last version that was circulated. Councilor Holman said he would like to see a Severance Pay Plan but only if it is kept to a very minimal time. Mr. Martin asked what is the minimal time? Councilor Hood said although we were a small community on the rise he suggested looking at two months. He said it was a shame we couldn't do this in the past.

Councilor Williams said he had a question of the unused sick leave that was in the audit. The sick leave is giving us time off and here and here it state that accrued would be paid. He asked if there was a differential of "what is" and "not is" sick leave? Steve Dunigan said you can accrue up to six hundred hours. Councilor Williams asked if he would be paid his hourly salary for six hundred hours? So this would be paid on top of the severance pay and hospitalization and he asked if retirement would also be included? Mr. Martin said yes and that some Severance Pay packages are just a lump sum amount.

Jay Smith, Museum Director said he was deeply conflicted about this whole discussion. On one hand it can be interpreted as employees looking for a parachute, on another hand it is protection from unavoidable situations. There is sometimes less need for protection than in others. By statute the manager or administrator has to be classified as an at-will employee he believed. He said he has no understanding as to why he is classified as an at-will employee and there may be other positions that feel the same way. He said if he was not doing a good job he would expect to be fired. As such you have board changes and changes in the community. With all due respect he said to all of you who have already engaged tirelessly on this issue he for one has not had a voice in this issue and he would perhaps like to join in this conversation to perhaps help find a better way to protect the City of Ruidoso Downs as well as himself. There are deeper issues as to who should and should not be an at-will employee. With respect to the mayor and council he said maybe there is a process that maybe would include some of them who this situation affects. He said there might be some good that could come out of this by discussing it with them as well. Councilor Holman said it's not just about the money thing but also the employee health plan and he did have concerns about employees being left with no health insurance. In today's times it is a serious thing to be without health insurance. He said he hopes the employees appreciate the City as much as we appreciate them because the City is paying a pretty high premium for that. He said he was thinking along the lines with Councilor Hood that two months would meet the sixty-day cobra thing. We're not a larger city that can dole out a six-eight months severance plan. Councilor Hood said if the mayor wanted to meet with the department heads and then bring it back he would be willing to entertain that and he said he would also be willing to entertain the two month deal. He asked Mr. Martin if he could bring back a plan for two months for the next council

meeting like for the administrator/manager and all of the department heads so they would know what they were looking at? Mr. Martin said he would come back with a spreadsheet with all of the at-will employees based on a two-month calculation. Members of the council asked if there was any public input on this topic?

Wayne Williams said he was retired from Public Service Company of New Mexico and during that time he was union steward for probably fifteen years. When you speak of employees that can just be fired without any recourse he said you will find from your equipment operator or whatever that they have never even heard of the National Labor Relations Board or the laws that apply to them. So he said he could almost guarantee every one of them feel like they could be fired at any time and don't know the ways to protect themselves or the laws or who to contact or what to do. His suggestion was that if we pass this Severance package just for the department heads you're going to cause a lot of hate and discontent from your hourly employees. His suggestion was to have an earned Severance package. For every year you've been here you get a week or whatever, for all employees. He has seen over the years that when management starts passing special umbrellas for themselves and the employees don't have a union to represent them, then they don't know who to go to and it causes a lot of hate and discontent and you'll probably wind up losing some people prematurely, some good people. He thinks there has been enough hate and discontent in the City of Ruidoso Downs in the last few years and you don't need more. He suggests including all employees and making it an earned Severance package like after five years. W.T. Martin Jr. said that is not an uncommon approach and you do see that a lot for instance in the potash mines.

Councilor Holman said again the regular employee does have some protection or they can go through the court system. In comparison to let's say the city clerk which he thought was a special position because it is mandated by state statute, that is an at-will position. With an at-will you don't even have to give a reason and they're gone. At least the city employee does have some protection. He said we do have the option to have no Severance package for anybody.

Mayor Armstrong said the question is do we adopt a plan or do we table the whole thing and said he would entertain a motion.

Councilor Hood moved to table this Severance Plan. Seconded by Councilor Olivo. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

PUBLIC INPUT (3 minute time limit)

Mayor Armstrong asked if there was any public input?

Bonnie Richardson said she would like to commend the Ruidoso Downs's personnel and staff across the board for the outstanding audit that you have just heard and it goes all the way from the bottom to the top when you get that kind of audit. She said we've seen a lot worse.

Mercedes Fernandez-Wells said she lives on Parkway in the Agua Fria Subdivision and urged them to look at the area because it is an eyesore and is a nuisance with the kids running around there.

Peggy Burton said she lives on Nevada and is not a resident of Agua Fria but this is in my neighborhood and said she was disgusted at what she has seen going on that you have allowed to take place in that place. She's been able to ride her horse over there and it's a mess. It's unfair to those people who bought property and felt that what they were getting was something they felt they could be proud of that they could pass on to their children and that it would stay as it was promised in the covenants that it would be. It is not that way and she said it is your responsibility to fix it.

There was a round of applause.

EXECUTIVE SESSION

Mayor Armstrong 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: Hubbard Museum of the American West: Wastewater Treatment Plant: Escondido Hills: and CV-2008-0337.

Mayor Armstrong 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: Hubbard Museum of the American West: Wastewater Treatment Plant: Escondido Hills: and CV-2008-0337.

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

Mayor Armstrong closed the regular meeting at 7:50 p.m. and invited W.T. Martin, Jr., City Attorney, and Carol Virden, City Clerk, into the Council Chambers after a five-minute recess.

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

Councilor Olivo moved to go back into regular session. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong called the regular session back to order at 9:20 p.m. and Councilor Williams 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 actions were taken.

ADJOURNMENT

Mayor Armstrong entertained a motion to adjourn.

Councilor Holman moved to adjourn at 9:21 p.m. Motion seconded by Councilor Olivo. Motion passed unanimously.

Tom E. Armstrong, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer