City Council
of the
City of Las Cruces

Regular Meeting

July 18, 2016
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:

Mayor Ken Miyagishima
Councillor Kasandra Gandara, District 1
Councillor Greg Smith, District 2
Councillor Olga Pedroza, District 3
Councillor Jack Eakman, District 4
Councillor Gill Sorg, District 5
Councillor Ceil Levatino, District 6

STAFF:

Daniel Avila, Interim City Manager
Rusty Babington, City Attorney
Linda Lewis, City Clerk

I. OPENING CEREMONIES

Mayor Miyagishima called the meeting to order. Councillor Sorg led the Pledge of Allegiance.

Jennifer Martinez from PIO presented the Pet of the Week.

Councillor Sorg presented a Proclamation to CARE (Cancer Aid Resource & Education) and declared November of 2016 as Pancreatic Cancer Awareness Month.

II. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27(E)(2).

At the opening of each council meeting, the chairperson shall ask if any member of the city council, city manager, or any member of the city staff has any known conflict of interest with any item on the agenda.

Councillor Gandara said for #4 on the consent agenda I was a voting member of the Doña Ana County Juvenile Justice Consortium while working for CYFD but am retired now.

Mayor Miyagishima said I don't think that's a conflict.

III. PUBLIC PARTICIPATION

Senator Steve Fishman said I'm here to thank the Council for discussing affordable loans for City employees and offer my support.

Mayor Miyagishima said the direction of Council was to offer it to local credit unions or banks.

Senator Steve Fishman said Doña Ana County is following up with this and Pima County, Arizona exploring the possibility. I also wanted to thank Council for intervening in the El Paso Electric rate case.

Donna O'Daniel, Member of the Public said I'm Chairman of the Support Your Local Police committee. We are not immune to violence. These shootings have triggered assassinations of cops. It is our desire and prayer that our Las Cruces police officers remain safe.

IV. ACCEPTANCE OF AGENDA

Mayor Pro-Tem Smith said there are just a few administrative changes to the minutes, Mike White and White's Music Box.

Councillor Sorg Moved to Approve the agenda as presented and Councillor Levatino Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the agenda as presented and it was Unanimously Approved. 7-0.

V. CITY COUNCIL MINUTES

*(1) Regular City Council Meeting of June 20, 2016

VI. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

*(2) Resolution No. 17-007: A Resolution Authorizing the Game Sports Bar & Grill to Continue with the Permitting Process to Allow for the Sale and Consumption of Alcoholic Beverages Within a Restricted and Secured Area at the Chupacabra Rugby Tournament to be Held on August 6, 2016 at Burn Lake Park, 1855 West Amador Avenue.

*(3) Resolution No. 17-008: A Resolution Authorizing the City of Las Cruces to Continue an Agreement with the South Central Council of Governments for Fiscal Year 2016-2017 and to Provide an Annual Membership Fee of $11,140.00.

*(4) Resolution No. 17-009: A Resolution Authorizing the City of Las Cruces to Accept Grant Funding in the Amount of $309,086.00 on Behalf of the Dona Ana County Juvenile Justice Continuum, from the State of New Mexico Children, Youth, and Families Department (CYFD); to Ratify the City Manager's Signature on the Contract Agreement with CYFD; and to Adjust the FY17 Budget.

VII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

(5) Resolution No.17-010: A Resolution to Approve the Quarterly Financial Report to the New Mexico Department of Finance and Administration for the Period Ending June 30, 2016.

Councillor Sorg Moved to Approve Resolution No. 17-010 and Councillor Eakman Seconded the motion.

Maria Villa, Accounting Manager gave an overhead presentation.

Councillor Eakman asked how does adding revenue and fund balance together equate to expenditures?

Robert Coleman, Budget Manager said when we budget there are fund balances that carry over that give us a larger value to the fund balances themselves. We are a conservative operation and have a long term viewpoint on our process.

Councillor Eakman asked if I add revenue and fund balance, wouldn't that be available funds instead of expenditures?

Robert Coleman said yes.

Councillor Eakman asked how did we get to $157,406,659 when the only number above it was 192?

David Dollahon, Assistant City Manager said the 311,018,454 is all available funds. The 157,406,659 is actual expenditures excluding the general fund expenditures.

Councillor Sorg asked where is the utilities enterprise in this?

Robert Coleman said it's in the all other funds.

Councillor Sorg asked what is the $154 million?

Robert Coleman said that is the cost of ongoing projects that haven't been posted.

Councillor Sorg asked what is the LEPF?

Mayor Miyagishima said it probably stands for local emergency planning fund. Fifty percent comes from the state, 25% from the county, and 25% from the City.

Councillor Sorg asked what is the difference between that and EMS?

Deputy Chief Jason Smith said the EMS is from EMS funds we receive from the state to pay for supplies and education for our EMS training.

Chief Jaime Montoya said LEPF is the Law Enforcement Protection Fund that we get from the state for training and equipment for officers.

Councillor Sorg asked could we have a list of all funds in the other?

Robert Coleman said consider it done.

Mayor Miyagishima asked did we end up with $3.5 million more?

Robert Coleman said that is correct.

Mayor Miyagishima asked did we spend $13 million less?

Robert Coleman said that is correct.

Mayor Miyagishima asked where is the $16.5 million?

Robert Coleman said not all of the expenditures have come in and we have projects still pending.

Mayor Miyagishima asked what do you expect the final number to be?

Robert Coleman said we will be close to $97 million.

Mayor Miyagishima asked will we end up with $3 to $3.5 million leftover?

Robert Coleman said more or less. We want to ensure that the quality of life is managed well and put money aside.

Mayor Miyagishima asked do we have $53 million in the Telshor fund?

Robert Coleman said it's included.

Rusty Babington, City Attorney said we have about $5-$6 million left that has to do with an escrow account that was set aside for pension funds. We've been in discussions with the county and hospital.

Mayor Pro-Tem Smith Moved to Amend Resolution No. 17-010 to replace exhibit A with the document presented and Councillor Eakman Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 17-010 to replace exhibit A with the document presented and it was Unanimously Approved. 7-0.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 17-010 and it was Unanimously Approved. 7-0.

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(6) Resolution No.17-011: A Resolution Approving a Waiver from 100% of the Required Road Improvements to 331.98± Linear Feet of Bell Road Associated with a Proposed Subdivision Known as Cardon Estates Subdivision on a 2.40± Acre Parcel Located at 5301 Bell Road. Submitted by Donohue Land Surveys on Behalf of Sylvia Cardon, Property Owner (65729W).

Councillor Sorg Moved to Approve Resolution No. 17-011 and Councillor Eakman Seconded the motion.

Katherine Harrison-Rogers, Acting Building & Development Services Administrator gave an overhead presentation.

Mayor Miyagishima asked is this close to the City limits?

Katherine Harrison-Rogers said it was annexed back in 1986 but it is close.

Mayor Miyagishima said I thought in the past they could do this as long as it wasn't being sold.

Rusty Babington, City Attorney said a financial hardship can't be used as a justification for a waiver but Council can grant one.

Mayor Miyagishima asked are they selling it?

Katherine Harrison-Rogers said she is splitting it into three pieces. Her children live there and she will be moving to the property. I don't think we've had any deed restrictions. In the county, they do have exemptions.

Mayor Miyagishima asked is this something the City could look into?

Rusty Babington said what we have right now is the Development Code with limited reasons for a waiver.

Mayor Miyagishima asked when you talk about paving, it is just an overlay?

Katherine Harrison-Rogers said you can specify.

Mayor Miyagishima asked what is the most inexpensive overlay?

Loretta Reyes, Interim Assistant City Manager said I don't have that for a residential street but for a major arterial mile it is $2.2 million.

Mayor Miyagishima asked how many feet is it?

Katherine Harrison-Rogers said 332 feet and 25 feet wide.

Councillor Pedroza said so many it could be recommended to just re-pave it.

Councillor Sorg said this is a problem that has come up time and time again and I've asked for a change in the code. Is the right of way in front of this property dedicated to the City?

Katherine Harrison-Rogers said yes.

Councillor Sorg asked would the minor local have to be 50 feet wide?

Katherine Harrison-Rogers said that's the full cross section. The pavement itself would be 33 feet.

Councillor Sorg asked is the property owner only responsible for half the street?

Katherine Harrison-Rogers said if it was a collector roadway or higher, they're responsible for half of that roadway. Local roadways are required to do the entire roadway.

Councillor Levatino asked why the difference in opinion between staff and P&Z?

Katherine Harrison-Rogers said staff looks at the code strictly.

Mayor Miyagishima asked what are the rules in the ETZ as far as waiving?

Katherine Harrison-Rogers said if you have never subdivided your property or if you are a large land area subdivision, you're exempt from having to do road improvements. For a property like this, they could only subdivide into two pieces. If they went beyond that, they would be required to do road improvements.

Mayor Miyagishima is that a possibility for the City?

Rusty Babington said in the future the ordinance can be changed.

Mayor Miyagishima asked what if we table it?

Rusty Babington said Council can table to a date certain.

Councillor Gandara said I can feel the frustration over this code and I'm concerned that all the members of the P&Z were not at that meeting. I think this is considered a hardship.

Mayor Miyagishima asked is chip seal the lowest standard?

Loretta Reyes said millings would be the lowest level. To build a residential road, it is $275 a linear foot so it would be around $92,000.

Councillor Levatino asked if we did the milling, would that be our cost?

Mayor Miyagishima said the owner would pay for that.

Loretta Reyes said millings are $3.25 a linear foot and chip seal $6.50 a linear foot.

Mayor Pro-Tem Smith asked would this ever extend further south?

Katherine Harrison-Rogers said we're not aware of any proposals in terms of extending but it is a possibility.

Mayor Pro-Tem Smith said if this road is going to be less traveled, then a lesser covering would be valid.

David Weir, Community Development Director said the subdivision code is a health, safety and welfare ordinance so you must always consider that. Also there should be a rationale for your decision including the community character. In the past in some instances the Council has approved them with no improvements and some they've asked for a pro rata share of payment. In others, they've denied them. Another thing to consider is what is an acceptable standard for you.

Councillor Eakman said I'm interested to find out from the applicant why we're not adding another parcel.

Councillor Pedroza said we need to possibly table this and deal with the unified development code.

Gerald Donohue, Donohue Land Surveys said Mrs. Cardon came to me and said she would like to move onto the property with her children. We would be bringing it into conformance. I don't think this road will become anything more than a dead-end street. Staff said denying the variance is something they are forced to do. The Council has the right to vote on what is best.

Mayor Miyagishima asked is there some type of a pavement right now?

Gerald Donohue said yes sir. It is asphalt and in reasonably good condition.

Mayor Miyagishima asked were you thinking additional millings on top of this?

Katherine Harrison-Rogers said that was just a suggestion. It is up to you.

Mayor Miyagishima asked would the minimal amount still be in line with the ordinance?

Rusty Babington said yes sir and you could do a payment in lieu of.

Daniel Avila asked could we table this to give you better numbers?

Mayor Miyagishima asked could you also look at various methods for the applicant to pay?

Councillor Pedroza Moved to Table Resolution No. 17-011 until August 1st and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Table Resolution No. 17-011 until August 1st and it was Unanimously Approved. 7-0.

VIII. BOARD APPOINTMENTS

Mayor Miyagishima appointed James Gibson to the ADA Committee.

Mayor Pro-Tem Smith Moved to Approve Mayor Miyagishima's appointment of James Gibson to the ADA Committee and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the appointment of James Gibson to the ADA Committee and it was Unanimously Approved. 7–0.

Mayor Miyagishima appointed Manuel Contreras to the Senior Programs Advisory Board.

Councillor Sorg Moved to Approve Mayor Miyagishima's appointment of Manuel Contreras to the Senior Programs Advisory Board and Councillor Eakman Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the appointment of Manuel Contreras to the Senior Programs Advisory Board and it was Unanimously Approved. 7-0.

Mayor Miyagishima reappointed Karen Woods to the Veterans Advisory Board.

Mayor Pro-Tem Smith Moved to Approve Mayor Miyagishima's reappointment of Karen Woods to the Veterans Advisory Board and Councillor Eakman Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the reappointment of Karen Woods to the Veterans Advisory Board and it was Unanimously Approved. 7-0.

Councillor Eakman appointed Elsie Ramirez to the Thomas Branigan Library Advisory Board.

IX. NOTICE OF PROPOSED ORDINANCE(S) ----- *1.) There will be no public discussion. 2.) A councillor may ask staff for clarification on the proposed ordinance(s).*

There were none.

X. CITY COUNCIL MEMBER BOARD REPORTS

Mayor Pro-Tem Smith said I'm serving on the South Central Regional Transit District and they are looking for ways to expand.

He said I also serve as Chair of the Animal Services Board. We are discussing additions to the facility to provide services and outreach to the public.

He said MVRDA is in its new structure and they seem to be doing well there.

He said this Friday I'm representing the Mayor at the Rio Grande Counsel of Governments.

XI. GENERAL DISCUSSION

a.) Mayor

Mayor Miyagishima said I have a complaint for the Animal Services Board. There was a resident who had an old cat and was concerned that putting a chip in it would kill the cat.

Mayor Pro-Tem Smith said it's currently $7 for micro chipping, $5 if you're a senior and $50 if you choose not to.

Mayor Miyagishima said I will be out of town the next couple Mondays.

He said I did get to talk to Doña Ana County about childhood poverty and I would like to see staff work up a resolution.

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b.) Council

Mayor Pro-Tem Smith said next Monday we'll be discussing Building a Safer Las Cruces.

Councillor Levatino said I had the opportunity to attend the board meeting of Verda with a tour of the facility.

She read a Facebook post by Montrell Jackson.

Councillor Sorg said I would like to continue talking about the code on City street standards.

He asked do we have the Parkinson's and pesticides discussion scheduled?

Mayor Miyagishima said we asked Mr. Hamilton to provide a list of chemicals used and alternatives we might want to look at and when he's ready he'll let us know.

Councillor Eakman said Memorial Medical Center has a stipulation that 4% of net receipts be put into capital improvements every year. I suggested they use the industry standard of average age of assets and divide by the non-depreciated value.

Councillor Pedroza said on Saturday at the Fountain Theater there was a movie called The Symphony of Our Soil.

Mayor Miyagishima said I wonder if that could be considered a public service that we could put on CLCTV.

Councillor Pedroza said Parks and Rec brought a group of third graders to City Hall and I talked to them.

She said on September 29th there will be an update on the immigration situation.

She said there will be a La Semilla brunch August 28th.

She said I was invited by the New Mexico Leadership Institute to talk to high school students.

She said today I received an invitation from Mary Kay Papen on mental health.

Mayor Miyagishima said I'd like to speak to ninth graders to help reduce the dropout rate.

Councillor Gandara said my district meeting is tomorrow at 6 p.m.

She said KRWG interviewed the task force on suicide prevention. The next meeting for the task force will be July 27th.

She said I expressed to Daniel my concern about City staff not doing a presentation on the gun resolution to present both sides. We need to start offering more data. I didn't feel there was a

dialogue or I would have tabled it.

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c.) City Manager

Daniel Avila said Wednesday, July 20th is a Special City Council Meeting at 3:00 p.m. for the 2016 flood control improvement bonds.

Chief Jaime Montoya said after the Dallas attacks I was approached by the media in El Paso to do a news release and we had a prayer vigil. He said I've met with several groups to talk about racial and societal issues. I will be going to Washington, DC on Thursday to talk about 21st century policing.

Mayor Pro-Tem Smith Moved to Adjourn and Councillor Eakman Seconded the motion.

Mayor Miyagishima said all of those in favor signify by saying "Aye."

Council said "Aye."

Meeting Adjourned at 3:59 p.m.

Mayor

City Clerk

(SEAL)