



**City Council
of the
City of Las Cruces**

Regular Meeting

**November 2, 2009
1:00 P.M.**

Council Chambers, City Hall

MEMBERS PRESENT:

Mayor Ken Miyagishima
Councillor Miguel Silva, District 1
Councillor Dolores Connor, District 2
Councillor Dolores C. Archuleta, District 3
Councillor Nathan Small, District 4
Councillor Gil Jones, District 5
Councillor Sharon Thomas, District 6

STAFF:

Terrence Moore, City Manager
Fermin Rubio, City Attorney
Linda Lewis, Deputy City Clerk

I. OPENING CEREMONIES

Mayor Miyagishima called the meeting to order and asked for a moment of silence. Councillor Thomas led the Pledge of Allegiance.

Ron Camunez sang the National Anthem.

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and Jordan Simons presented the Pet of the Week.

Mayor Miyagishima presented the Mayor's Distinguished Service Award to Lou and Mary Henson.

Councillor Archuleta presented a Proclamation to GFWC Progress Club Members and declared November 9th thru November 15, 2009 as Women Veterans Recognition Week.

Anna Bieber gave a presentation on Junior Achievement.

David Dollahon gave a presentation on the Juvenile Citation Program and National Recognition.

Jim Richards gave a presentation on various federal matters for the City of Las Cruces.

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.*

Mayor Miyagishima asked if anyone had any conflicts with anything on the agenda?

None given.

III. PUBLIC PARTICIPATION

Joe Fuller, Member of the Public said we need more ballfields. Don't take Apodaca Park away from our kids to give it to a City baseball team.

Russ Warner, Member of the Public said there was a lot of negative campaigning going on during this election.

Margaret Markham, Member of the Public said the old house at the end of the Loretto Town Center is falling apart and needs to be preserved. There are many more original homes that are old enough to be considered for both the State and National Historical Preservation list.

Frank Bryce, Member of the Public said I have asked several times when and what land will be transferred to the Animal Shelter as stated it would be done in the JPA. If this is a lease agreement then who is responsible for making the repairs and improvements to the building?

Mayor Miyagishima said the lessee is able to do repairs on a building with the lessor's permission.

Fermin Rubio, City Attorney said there have been emails from Mr. Bryce regarding this issue and the big concern is the animals; the animals are being taken care of which is the most important issue. The intent was to try to get that property over to the Animal Shelter; however, our efforts to modify the deed were to eliminate a concern that we had, we decided to just amend the JPA and allow the Shelter to use the facility with the cooperation of the Dona Ana County.

Isaac Chavez, Member of the Public said I told you that we were going to have to start closing services and fields and that's just what happened. We need to do something but we don't need to keep cutting the services.

IV. ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY AN ASTERISK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON BY ONE MOTION.

Mayor Miyagishima said Item 12 will need to be heard before Item 10, making it 9A.

Councillor Connor Moved to approve the Agenda as Amended and Councillor Silva Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to accept the Agenda as Amended and it was APPROVED. 6-0 Councillor Small was Absent.

V. CITY COUNCIL MINUTES

- *(1) Regular Meeting of September 21, 2009
- *(2) Special Meeting of September 21, 2009

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

- *(3) Resolution No. 10-125: A Resolution Authorizing the City of Las Cruces Police Department to Accept the U.S. Department of Justice, Bureau of Justice Assistance Bulletproof Vest Program Grant in the Amount of \$24,600 Requiring a Local Cash Match of \$24,600 and to Adjust the FY 2010 Budget.
- *(4) Resolution No. 10-126: A Resolution Declaring City Property Obsolete or Surplus and Authorizing a Private Sale to Dispose of City of Las Cruces Property.
- *(5) Resolution No. 10-127: A Resolution That Will Allow the City of Las Cruces Fire Department (City) to Accept Various Emergency Preparedness Equipment Valued at \$49,407.12 Pursuant to a Grant Funded by the United States Department of Homeland Security, Office of State and Local Government Coordination and Preparedness Through the New Mexico Department of Public Safety, Office of Emergency Management and the Doña Ana County / City of Las Cruces Office of Emergency Management for FY 2006 Grant.

- *(6) Resolution No. 10-128: A Resolution That Will Allow the City of Las Cruces Fire Department (City) to Accept Training Reimbursement Valued at \$132,381 Pursuant to a Grant Funded by the United States Department of Homeland Security, Office of State and Local Government Coordination and Preparedness Through the New Mexico Department of Public Safety, Office of Emergency Management and the Doña Ana County / City of Las Cruces Office of Emergency Management for FY 2007 Grant, and to Adjust the FY 2010 Budget.
- *(7) Resolution No. 09-10-410: A Resolution Awarding the Third and Final of Three Possible Extensions on a Four Year Contract for Transit Vehicle Wash Services to Steve Ellison's Splish Splash of Las Cruces, New Mexico for an Indefinite Quantity and Indefinite Dollar Amount Not to Exceed an Estimated Total Budget of \$ 89,992.

VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

- (8) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 10-129, A PUBLIC HEARING MUST BE HELD.**

Mayor Miyagishima said this item is now open for a public hearing. Is there anyone who wishes to speak against this item?

None given.

Resolution No. 10-129: A Resolution Approving the Issuance of a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to Joseph J. Mathieu D/B/A Dickey's Barbeque Pit, Located at 1660 South Valley Drive, Las Cruces, New Mexico.

Councillor Archuleta Moved to Adopt Resolution No. 10-129 and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-129 and it was APPROVED. 6-0 Councillor Small was Absent.

- (9) Resolution No. 10-130: A Resolution Approving a Third Amendment to the Operations and Management Agreement Between the City of Las Cruces and Mesilla Valley Community of Hope Incorporated (MVCH).

Councillor Archuleta Moved to Adopt Resolution No. 10-130 and Councillor Connor Seconded the motion.

David Dollahon, Neighborhood Services Administrator gave a presentation and said we are extending the lease through the remainder of this fiscal year which is to June 30, 2010. We're not changing the current lease but do expect major changes to the next lease.

Councillor Connor asked why are you waiting five months after the lease expires?

David Dollahon said the new lease is going to be substantially different so we want to give ample opportunity to be able to discuss it with the Community of Hope agencies.

Councillor Connor said we need to have a work session regarding this issue and issues, like how it is going to be maintained.

Terrence Moore, City Manager said this is just to extend the current lease. We can have a work session prior to this issue coming back to Council. We can look at having it somewhere in the January February 2010 time frame.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-130 and it was APPROVED. 6-0 Councillor Small was Absent.

(12) Council Bill No. 10-018; Ordinance No. 2547: An Ordinance Repealing Las Cruces Municipal Code, Sections 2-826 Through 2-828, Sister Cities Board, In Its Entirety.

Councillor Connor Moved to Adopt Council Bill No. 10-018; Ordinance No. 2547 and Councillor Archuleta Seconded the motion.

Councillor Archuleta Moved to suspend the rules and discuss Items 12 and 10 concurrently and Councillor Jones Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to suspend the rules and discuss Items 12 and 10 concurrently and it was APPROVED. 6-0 Councillor Small was Absent.

Lori Grumet, Public Services Director gave a presentation and said the last recorded meeting of our Sister Cities Board was in 1995. The Sister Cities Foundation is still functioning; so, this would dissolve our Sister Cities Advisory Board and the MOA directs Mr. Moore to appoint a liaison to the Sister Cities Board to make sure that the Foundation Board continues on an upward path.

Councillor Connor said I agree with the ordinance that is repelling the Sister Cities Board but I don't think the resolution for the MOA goes deep enough and it's not that much different than what's already in place. We need to look at our funding to an organization that doesn't even meet the minimum requirements and we need to have more outreach to increase the membership of the Sister Cities.

Lori Grumet said the board has been struggling to find people who are willing to step up and serve as officers. They are working very hard to improve the things that have been out of sync in the past. They are planning on going through a financial audit some time in the near future.

Councillor Connor said they can continue to operate under the current MOA that is in place and then once everything is addressed then we can consider a new MOA.

Fermin Rubio, City Attorney said there are provisions for foundations under State law that will need to be complied with as well.

Mayor Miyagishima said this was brought before us because we didn't like the fact that it was operating without oversight from Council and there were problems with people serving on the committee.

Audrey Evins, Auditor said we will be going over the audit findings and we can bring this back before Council in six months to review the MOA.

Mayor Miyagishima said could we bring it back in about three months?

Audrey Evins said yes, that will be a reasonable time frame.

Councillor Connor said we do need to vote this up or down now because there will be a new Council after the election and we can't have any pending business.

Councillor Jones asked if we vote this down, can we still bring it back at a later date?

Terrence Moore said yes.

Lori Grumet said staff would be in favor of bringing this back to you sometime in the future to give everyone time to get their ducks in a row.

Councillor Archuleta said we were planning on moving the Sister Cities display to the new City Hall, is that something that needs to be considered for the new MOA?

Lori Grumet said that is something that the Sister Cities Foundation Board was concerned about because their artifacts are very precious to them and that is something that can be handled through the MOA or administratively.

Councillor Silva asked if this is voted down, when can it be brought back?

Lori Grumet said we can try to bring it back in about three months but we would like to ask that each Councillor take a look at what we've done so far and then send their comments and suggestions for changes to Mr. Moore.

Jim McKinney, Member of the Public said I resigned as the President of the Sister Cities during the spring and there are two things that I would like to address; there is a page on page 102, item 3 of your agreement, the statement is incorrect because they joined the Foundation, the Board is the Board of Directors and item 6, the last word of line 1 should be which not witch.

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-018; Ordinance No. 2547 and it was APPROVED. 4-2 Councillor Silva, Councillor Connor, Councillor Archuleta and Mayor Miyagishima voted Aye. Councillor Jones and Councillor Thomas voted Nay. Councillor Small was Absent.

- (10) Resolution No. 10-131: A Resolution Repealing Resolution 95-184, Approving an Agreement Between the Las Cruces Sister Cities, Inc. (Foundation) and the City of Las Cruces, and Establishing a New Memorandum of Agreement Between the Two Bodies.

Councillor Jones Moved to Adopt Resolution No. 10-131 and Councillor Archuleta Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-131 and it FAILED. 1-5 Mayor Miyagishima voted Aye. Councillor Silva, Councillor Connor, Councillor Jones, Councillor Thomas and Councillor Archuleta voted Nay. Councillor Small was Absent.

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- (11) Resolution No. 10-132: A Resolution Rescinding Resolution 08-199 and Amending Paragraph 15 of the 2006 Agreement for Construction of Rinconada Boulevard from Northrise to Sonoma Ranch Boulevard; Portions of Sonoma Ranch Boulevard Between US. Highway 70 and Lohman Avenue; the South Fork Arroyo Crossing at Sonoma Ranch Boulevard Including Associated Arroyo Improvements; and Lohman Avenue from its Current Terminus to Sonoma Ranch Boulevard as Requested by Alameda.

Councillor Archuleta Moved to Adopt Resolution No. 10-132 and Councillor Jones Seconded the motion.

Mark Sutter, Finance Director gave a presentation and said this is an amendment to the 2000 payment schedule due to the current economic situation. This does state that payment must be received by 2015 or the property will revert back to the City.

Mayor Miyagishima asked Mr. Pickel, is there anything that you can provide to the City, like 10% of gross sales?

Jack Pickel, Alameda Land Investment Corporation said we do pay the City whenever we sell something but the problem is that since we sold to Walmart two years ago, we've only had one sale. I do anticipate that we will be making some kind of payment in 2011-2012.

Councillor Thomas asked when will they construct the Walmart?

Jack Pickel said it's currently on hold but we're looking at them to build the store in 2011.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-132 and it was APPROVED. 6-0 Councillor Small was Absent.

VIII. BOARD APPOINTMENTS

None given.

IX. REVIEW OF PROPOSED ORDINANCE(S)

None given.

X. STATUS/UPDATES ON CURRENT PROJECT LIST

1. **State Legislative Fall Back**
2. **Strategic Plan** - *(Implementation documents being prepared, finalizing plan for council review and consideration.)*
3. **Las Cruces Convention Center** - *(Site work is underway which includes excavation and construction of footings, stem walls and pads, preliminary grading of the detention pond and parking lot, utility locates and, preparation for plumbing rough-in work to commence in the near future.)*
4. **Downtown** - *(The project design is ongoing with Bohannon-Huston, Inc. The city has completed the final details for the proposed cul de sac on Lucero Ave. Bohannon-Huston has submitted the 95% complete plan set for the final review and has received all of the comments to finalize the design. The anticipated completion of the design for the north end portion is October 30, 2009. Bohannon-Huston will begin the design of the southern portion of the project)*
5. **Impact Fees** - *(The project is on-going. Staff is currently reviewing the latest draft of the Impact Fee Capital Improvements Plan (IFCIP) with the Consultant. Before the new draft IFCIP is finalized, the Consultant has prepared a summary of the options discussed by the City Council during the Work Sessions held in March, April, and May of this year. The summary is a separate document and includes a table listing the actions that will have to be taken in order to move forward with each option (e.g., Do the land use assumption have to be revised?, etc.). The purpose of this summary is to provide information in a concise format for the CIAC and City Council to use in making their decision on which option to use in the IFCIP document to calculate the impact fees. It is important that the CIAC and City Council choose one option; therefore, staff will begin the process by presenting the summary document to the CIAC for discussion and action at their next meeting.)*
6. **Vision 2040** - *(Staff has received the latest drafts from the consultant and is reviewing them. Public review of the draft documents began on Monday, September 21st. The current drafts are posted on the Vision 2040 website and will also be available on CD and in print upon request. A week of public input meetings is scheduled for the week of October 19th. The consultant will also lead discussions with joint meetings of the City Council and County Commission as well as the region's Planning Commissions. The meeting schedule will also be posted on the website.)*
7. **Citywide Swimming Pool Enhancement Program** - *(Completion of the exterior block walls near complete for the aquatic center with roof trusses and material installation well underway. Structural steel installation for the entrance area of the facility as well as the second floor of the building for future recreation space is in process as well as plumbing*

rough-in and ventilation. Pool excavation to begin soon with all permit related matters with the New Mexico Environment Department nearly resolved.)

(The design contract for the future planned Natatorium has been signed and the design consultants with staff have begun initial meetings to define scope of work as well as begin the soliciting process for public input.)

8. **Development and Construction of New City Hall** – *(Interior finishes in Area A/North wing is near complete while Areas B and C, lobby area, Council Chambers and South wing respectively continue to proceed. Commissioning of the building is underway which includes heating, cooling, ventilation among other testing. Site work continues with grading, concrete sidewalk, curbing and drainage infrastructure in process. Evaluation and selection of furnishings is underway.)*
9. **Development and Construction of the Intermodal Facility** – *(Staff is currently developing an independent cost estimate for the facility to determine what scope of work can consist of given funding limitations. An RFP is being finalized for architectural and engineering services to design said facility with anticipated advertizing during the month of November.)*
10. **Grants/ARRA Status** - (Matrix.)

Terrence Moore, City Manager said regarding Item 1, I would like to circulate the official notification concerning the direction of Governor Richardson regarding capital projects. We have a few projects that might be affected but we are in the process of working on those issues with the State of New Mexico.

Councillor Connor said regarding Item 4, did we meet the deadline?

Mike Johnson, Public Works Director said I believe we did but I will need to verify it.

XI. GENERAL DISCUSSION

1. Mayor

Mayor Miyagishima said there will be a picnic for our Police and Fire Departments this Saturday at Veterans Park from 12:00 to 3:00 p.m.

On November 14th there is a Recyclable Event for things like old computers, at the South Central Solid Waste Authority.

I would like to compliment Will Ticknor on the Abraham Lincoln exhibit.

2. City Council

Councillor Archuleta said the resurfacing of Seldon Street has been changed to asphalt which will make it a much better job.

We have a lot of meetings at the City Office Center which are scheduled annually; are those organization meetings going to be held at the new City Hall?

Terrence Moore said yes, that is going to be part of the relocation transition process.

Councillor Archuleta said last Wednesday, we had our semi annual meeting for Healthy Kids and they create healthy programs to keep our children healthy. Healthy Kids Las Cruces was named as one of the top ten models in the nation.

Councillor Thomas said the proposed utility increase continues to be a big topic for discussion and there will be a Rate Payers meeting on November 4th at 6:00 p.m. here in chambers.

Councillor Jones said we need additional ballparks but there is a funding issue. We could consider using the funds from the sale of the City Office Center and City Hall be used toward our ballfields.

I think that before we get into our next rainy season, we need to complete our Waterfalls Pond Project.

I want to mention that around the Oro Vista Pond, there is a lot of concrete issues which is making that a very dangerous area and we need to address those issues before someone gets hurt.

Councillor Connor said I want to thank Mike Johnson and Alma Cortez for the quick response to a problem we had this morning on Stanford.

The Citizens Bank on the corner of University and Telshor worked with myself and the Boys and Girls Club to landscape the median that is in that area.

The White Sands Film Festival is scheduled to return next year on April 15th thru April 18, 2010.

I would like to ask Mr. Moore if I can send out an all City email to inform everyone that I am collecting toys for the Toys for Kids Parade on November 22nd.

Terrence Moore said so authorized.

Councillor Silva said we've received some emails concerning the south side of the Market area.

Robert Garza, Assistant City Manager said we are open to any suggestions but so far we are just following the direction that was given to us by Council which is to keep the vendors at the south end until we build the north end.

Councillor Silva asked is there going to be funding for shading on the north end?

Robert Garza said the design that was approved by Council is the design we are going forward with.

Councillor Silva gave an overhead presentation on pictures of shading structures.

Councillor Archuleta said I just want to remind everyone of our Veterans Parade on November 11th at 9:00 a.m.

- 3. City Manager
 - A. Other Items - Information Only

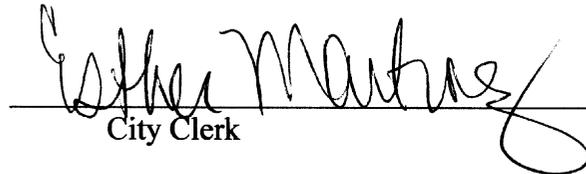
None given.

Meeting Adjourned at 3:34 p.m.



Mayor

ATTEST:



City Clerk

(SEAL)