City Council
of the
City of Las Cruces

Regular Meeting

May 18, 2015
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:

Mayor Ken Miyagishima
Councillor Miguel Silva, District 1
Councillor Greg Smith, District 2
Councillor Olga Pedroza, District 3
Councillor Nathan Small, District 4
Councillor Gill Sorg, District 5
Councillor Ceil Levatino, District 6

STAFF:

Robert Garza, City Manager
Rusty Babington, City Attorney
Esther Martinez-Carrillo, City Clerk

I. OPENING CEREMONIES

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

Mayor Miyagishima and a representative from the Animal Services Center of the Mesilla Valley presented the Pet of the Week.

Mayor Miyagishima presented the Mayor's Citation for Community Service to Dino Ray Villiani for having the name he submitted selected as the winning name of the Aquatic Center's turtle mascot.

Councillor Sorg presented a Proclamation to Donna Hommer and declared May 2015 as National Community Action Month.

Councillor Sorg presented a Proclamation to the Organ Mountain Desert Peak Coalition and declared May 15 thru May 22, 2015 as Organ Mountains Desert Peaks Anniversary Week

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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?

There were no conflicts of interest.

III. PUBLIC PARTICIPATION

James Scott, Member of the Public said my wife painted a painting of the Organ Mountains and we want to present the Mayor with a copy of that print.

Jack Eckman, Member of the Public said there are two items that I think improvements are possible, which are that Las Cruces and Doña Ana County need more opportunities for jobs with higher salaries attached and that Las Cruces and Doña Ana County need increased behavioral health services.

Steve Fischmann, Member of the Public said I speaking on behalf of the Southwest Energy Alliance and we are not particularly happy with the El Paso Electric Rate Case. The most effective way to minimize future power costs is to reduce wasteful use and improve system efficiency.

Jack Soules, Member of the Public said I was introduced to one aspect of Las Cruces's water issues in September 1955 at my house on Colorado Avenue. In the face of serious concerns about climate change, we cannot afford to waste any water. We must learn to control evaporation.

Debra Medoff-Marks, Member of the Public and Executive Director of the Las Cruces Symphony Association asked the City to consider sponsorship of the Pops Under the Stars Outdoor Concert for the City of Las Cruces.

Lonnie Kline, Member of the Public said we have been planning this concert since last October. This is a way to reach out to the community and play music that would serve the under served. I hope that you can support this.

Maggie Fallen, Member of the Public said I represent the Las Cruces Tennis Players Association and there is a continuing need to revitalize the Lions Park Tennis Courts.

Steve Chavira, Member of Public said I want to thank the City for the interaction with the Las Cruces Homebuilders Association. I would like to ask if the update to the MUNIS system allows for a fully automated permit tracking and construction project management tracking that can be brought to the

front and we would like to be part of the process. It is important to shorten the time from permit to final approval to get in the building.

Rico Gonzales, Member of the Public and Director of New Mexico External Affairs for El Paso Electric said we are here to talk about the rate case we filed last week with the PRC. We are more than happy to participate in a work session, anything that you need from us in terms of communicating to your constituencies and to yourselves.

Jim Schichtl, Member of the Public and Director of Regulatory Affairs for El Paso Electric gave an overhead presentation on the rate case.

Councillor Pedroza said I want to talk about how depreciation of facilities works into the rate case, the equity of how you arrived at rates, the names of the classes for each rate, and why you think it's an equitable distribution of the rates. I'd like to talk about the environment and what you do to protect the environment. If someone could explain the difference to me between a public utility and an investor owned utility? I would also like to know the difference between Texas and New Mexico.

Councillor Small said I want to compliment the phasing out of coal. How many households is this targeted to reach over the life of these rates?

Jim Schichtl said the starting point is to get approval for a pilot program where we would issue an RFP to potential vendors of software and systems that allow them or us to perform this demand response primarily for air conditioning recycling response of refrigerated air.

Councillor Small asked why not go more aggressively toward a tiered rate structure?

Jim Schichtl said we do have a tiered rate structure for residential customers in New Mexico. What a demand response program like this allows you to do is to target the reductions when you need the demand and the metering requirements are lower.

Councillor Silva asked if the process is one where El Paso Electric comes up with a payment plan and then allowed to respond to that or is it a discovery process where El Paso Electric made this investment and would like to recover this investment and then the negotiations start at that point?

Jim Schichtl said the utility has the burden of proof to demonstrate that they need a rate increase and so the filing package includes all of the evidence we think necessary to support what we're requesting. The commission will then send out a procedural schedule to set dates and time frames but then other parties can intervene on the case and becomes participants in the process.

Councillor Silva said I'm assuming it's proportionally split apart since you're serving Texas and New Mexico.

Jim Schichtl said we allocate between the jurisdictions, the total amount of revenue we need to recover is split between Texas and New Mexico on the basis of the services we provide.

Councillor Silva said in Texas you work through the City Council and in New Mexico you work through the PRC.

Jim Schichtl said the City of El Paso has original jurisdiction so they become our primary regulator for the City of El Paso so we take our rate case to the City of El Paso as our regulator first. We also file our case at the PUC because we have a lot more service territory. So, in New Mexico we take our proposal to the PRC and let them make the determination. The City can obviously be an intervener but they're obviously not a regulatory authority in that system.

Mayor Miyagishima asked what percent does Las Cruces and Doña Ana County represent of the whole picture of El Paso Electric?

Jim Schichtl said it's about 90,000 customers in New Mexico, which Las Cruces makes up a good portion of or about 20% of electric usage, so one fifth of our total.

Mayor Miyagishima asked how do I explain to my residents how a 20% increase in rates can be justified with all that profit the last five years?

Jim Schichtl said it's different across classes. The increase in our non-fuel based revenue is the 7.1% increase. When we make a determination that we have to go in for a rate case, it's about recovering all of our operating costs to provide service, measuring our return on equity, and raise capital.

Mayor Miyagishima asked what can the ratepayer do collectively so they wouldn't have to see any increases?

Tom Shockley said we need to make sure our kilowatt hours grow faster than our demand. We're looking at a program for individuals to find ways for energy efficiency in their homes.

IV. READ CLOSED MEETING STATEMENT(S)

Read May 4, 2015 Closed Meeting Statement into the record.

Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council met in Closed Session at 5:20 p.m. on May 4, 2015. The following members were in attendance: Mayor Miyagishima, Councillor Silva, Councillor Smith, Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Levatino, City Manager Robert Garza, Acting Assistant City Manager Andre Moquin, Assistant City Manager Brian Denmark, Public Works Director Loretta Reyes (Departed at 5:50 p.m.), Land Administrator Bill Hamm (Departed at 5:50 p.m.) and City Attorney W.R.

Babington, Jr. The meeting adjourned at 6:20 p.m. and only those limited items stated in the posted notice were discussed which was to discuss pending litigation.

V. 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.

Councillor Silva Moved to Approve the Agenda and Councillor Smith Seconded the motion.

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

VI. CITY COUNCIL MINUTES

*(1) Regular City Council Meeting of April 20, 2015

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

*(2) Resolution No. 15-217: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction for Public Celebration Permit Applications from Amaro Winery and High Desert Brewing Company for the Body Art Block Bash to be Held on Saturday, June 6, 2015.

*(3) Resolution No. 15-218: A Resolution Authorizing Amaro Winery to Continue With the Permitting Process to Allow for the Sale and Consumption of Wine During the "Body Art Block Bash" to be Held on Saturday, June 6, 2015.

*(4) Resolution No. 15-219: A Resolution Authorizing High Desert Brewing Company to Continue With the Permitting Process to Allow for the Sale and Consumption of Beer During the "Body Art Block Bash" to be Held on Saturday, June 6, 2015.

*(5) Resolution No. 15-220: A Resolution Authorizing Beverly Hills Hall to Continue With the Permitting Process to Allow for the Sale and Consumption of Alcoholic Beverages Within a Restricted and Secured Area at Events Sponsored by Crossroads City Derby at Meerscheidt Center, 1600 East Hadley, on June 6, 2015 and July 18, 2015.

*(6) Resolution No. 15-221: A Resolution Authorizing the City of Las Cruces, to Accept a Direct Purchasing Agreement in the Amount of $75,000.00, From the New Mexico Economic Development Department for Local Economic Development Act (LEDA) Capital Outlay Project - Franco Whole Foods, With a $75,000.00 Local Match, and to Adjust the City's FY 2015 Budget.

*(7) Resolution No. 14-15-159: A Resolution Approving an Indefinite Cost, Indefinite Quantity Contract Purchase for Renewal of Cisco Smartnet Support from CDW-Government of Chicago, IL Via Cooperative Educational Services Price Agreement No. 2014004-204125 MWI Subject to Annual Renewals and Approved Budgets.

*(8) Resolution No. 14-15-165: A Resolution Approving the Purchase of a Gradall Excavator from Sierra Machinery of El Paso, Texas Through Houston-Galveston Area Council (HGAC Buy) Contract No. EM06-13 in the Amount of $393,022.00 and to Re-Allocate Spending Authority.

VIII. UNFINISHED BUSINESS:

(9) Resolution No. 15-201: A Resolution Reviewing and Approving the City Clerk's Certification of Insufficient Petition as Amended Involving the Recall Petition of Councillor Gill M. Sorg. ***(TABLED FROM APRIL 20, 2015)***

Councillor Smith Moved to Remove Resolution No. 15-201 from the Table and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Remove Resolution No. 15-201 from the Table and it was Approved. 6-0-1 Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Levatino, Councillor Smith and Mayor Miyagishima voted Aye. Councillor Sorg abstained.

Councillor Smith Moved to Table Resolution No. 15-201 to June 1, 2015 and Councillor Pedroza Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Table Resolution No. 15-201 to June 1, 2015 and it was Approved. 6-0-1 Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Levatino, Councillor Smith and Mayor Miyagishima voted Aye. Councillor Sorg abstained.

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(10) Resolution No. 15-202: A Resolution Reviewing and Approving the City Clerk's Certification of Insufficient Petition as Amended Involving the Recall Petition of Councillor Olga Pedroza. ***(TABLED FROM APRIL 20, 2015)***

Councillor Small Moved to Remove Resolution No. 15-202 from the Table and Councillor Smith Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Remove Resolution No. 15-202 from the Table and it was Approved. 6-0-1 Councillor Silva, Councillor Small, Councillor Sorg Councillor Levatino, Councillor Smith and Mayor Miyagishima voted Aye. Councillor Pedroza abstained.

Councillor Smith Moved to Table Resolution No. 15-202 to June 1, 2015 and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Table Resolution No. 15-202 to June 1, 2015 and it was Approved. 6-0-1 Councillor Silva, Councillor Small, Councillor Sorg Councillor Levatino, Councillor Smith and Mayor Miyagishima voted Aye. Councillor Pedroza abstained.

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(11) Resolution No. 15-203: A Resolution Reviewing and Approving the City Clerk's Certification of Insufficient Petition as Amended Involving the Recall Petition of Councillor Nathan P. Small. ***(TABLED FROM APRIL 20, 2015)***

Councillor Smith Moved to Remove Resolution No. 15-203 from the Table and Councillor Pedroza Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Remove Resolution No. 15-203 from the Table and it was Approved. 6-0-1 Councillor Silva, Councillor Pedroza, Councillor Sorg, Councillor Levatino, Councillor Smith and Mayor Miyagishima voted Aye. Councillor Small abstained.

Councillor Smith Moved to Table Resolution No. 15-203 to June 1, 2015 and Councillor Pedroza Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Table Resolution No. 15-203 to June 1, 2015 and it was Approved. 6-0-1 Councillor Silva, Councillor Pedroza, Councillor Sorg, Councillor Levatino, Councillor Smith and Mayor Miyagishima voted Aye. Councillor Small abstained.

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

(12) Council Bill No. 15-036; Ordinance No. 2755: An Ordinance Repealing and Replacing Section 36-3 Definitions and Enacting a New Section 36-120 of the Las Cruces Municipal Code, Entitled "Consolidated Development/Builder Identification Signs and Development Directional Signs". Submitted by Sierra Norte Development, Inc., Case No. SCA-14-01.1

Councillor Sorg Moved to Approve Council Bill No. 15-036; Ordinance No. 2755 and Councillor Smith Seconded the motion.

Robert Kyle, Building Official gave an overhead presentation and said this is the culmination of a private sector and City staff pilot project that started back in 2012. This Ordinance is to create a category of signs called Consolidated Developer/Builder Identification Signs and these are signs that could be placed on private properties outside of the boundary of the subdivision. The other sign being proposed is Development Directional Signage. These are small signs that direct you to the subdivision. This was approved as an amendment to the sign code by the Planning and Zoning Commission.

Quint Lears, Member of the Public said this is important because those coming from out of town are not being able to find the new home communities and the reason is lack of signage.

John Moscato, Applicant gave an overhead presentation and said I met with Mr. Garza and Mr. Denmark on ways to help City policy be more business friendly. Signage was designated as a high priority.

Councillor Smith said the presumed result is a reduction in signage clutter.

Robert Kyle said yes, that is our hope.

Councillor Smith said length of sign placement is helpful.

Robert Kyle said there is an initial permitting term and a renewal term.

Councillor Levatino said she wants to compliment the City and private sector working together. My customers find it easier to identify which developments are there and it's also a safety issue.

Councillor Pedroza said the letter from Mr. Ortega seems to support that this is only for one developer.

Robert Kyle said this is a sign code amendment, which is for everybody. There are provisions for doing a PUD with deviations from the specific signage. The Ordinance itself is a general application process.

Councillor Small asked is there any plan for other sign code revisions?

Robert Kyle said yes, the staff wants to go through the code and look at multiple revisions.

Councillor Small asked will this Ordinance lessen advertisement signage while allowing offsite advertising?

Robert Kyle said we hope that it will.

Councillor Small asked will there be a mechanism to monitor and enforce clutter?

Robert Kyle said it would be part of the current enforcement action.

Councillor Small asked do you think there is adequate tools for enforcement?

Robert Kyle said that's a codes enforcement function but this will help address the issue.

Councillor Small asked can you explain the 10 acre minimum?

Robert Kyle said it was to establish some kind of control or threshold.

Eddie Binns, Member of the Public said this is a project that will effect Citywide development and a broad industry benefit.

Paul Ortega, Member of the Public read a letter he wrote regarding his concerns with this issue.

Steve Chavira, Member of the Public said I am with the Home Builders Association and we are behind this. Let's showcase what other people coming to town want to know about Las Cruces.

Councillor Small asked is there any other public right-of-way use for signs?

Robert Kyle said yard sale signs are not allowed in public right-of-way. There are several exemptions for signs allowed in the public right-of-way.

Councillor Small asked is there any cost associated with that?

Robert Kyle said there's the permit fee, the cost to build the sign, and the cost to maintain the sign.

Councillor Levatino said if I heard correctly they are paying something besides the permit fees.

Robert Kyle said they will indemnify the City.

Councillor Smith asked what might be some of the other defining aspects of whether or not it is appropriate to let a sign be in public space?

Robert Kyle said it would predominantly be a traffic safety standpoint.

Councillor Small asked what if any limitations exist on the directional signs in public right-of-way?

Robert Kyle said it's one sign per quarter mile, maximum of four signs per development.

Councillor Pedroza asked when should we review this to see how successful or unsuccessful it has been?

Robert Kyle said until we implement it and see what the response and impact is, it's going to be hard to answer that.

Councillor Pedroza asked what penalties are imposed for violations?

Rusty Babington, City Attorney said as a petty misdemeanor the max would be $500 and 90 days in jail. I would have to look at the signed ordinance to see what's imposed.

Mayor Miyagishima called for the roll on the Motion to Approve Council Bill No. 15-036; Ordinance No. 2755 and it was Unanimously Approved. 7-0

X. BOARD APPOINTMENTS

Mayor Miyagishima reappointed John Villescas and John Townsend to the Extra-Territorial Zoning Commission Board.

Councillor Smith Moved to Approve Mayor Miyagishima's board reappointments of John Villescas and John Townsend to the Extra-Territorial Zoning Commission Board and Councillor Levatino Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board reappointments of John Villescas and John Townsend to the Extra-Territorial Zoning Commission Board and it was Unanimously Approved. 7-0

Mayor Miyagishima appointed Juliette M. White (Benavidez Center Representative) to the Senior Programs Advisory Board.

Councillor Sorg Moved to Approve Mayor Miyagishima's board appointment of Juliette M. White (Benavidez Center Representative) to the Senior Programs Advisory Board and Councillor Smith Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board appointment Juliette M. White (Benavidez Center Representative) to the Senior Programs Advisory Board and it was Unanimously Approved. 7-0

XI. 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 no proposed ordinances.

XII. CITY COUNCIL MEMBER BOARD REPORTS

There were no City Council member board reports.

XIII. GENERAL DISCUSSION

a.) Mayor

Mayor Miyagishima said I wanted to thank Esther Martinez-Carrillo, City Clerk, for all her years of service. I also want to thank Brian Denmark for his years of service.

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b.) City Council

Councillor Smith asked how can we support the Las Cruces Symphony Orchestra?

Mayor Miyagishima said I would suggest Robert take a look at it and see what he can work out.

Councillor Levatino said on Tuesday Councillor Smith, Councillor Silva and I attended the Fallen Officers Memorial at the Convention Center. It was moving and I wish more people had shown up. And then on Friday, we had the ceremony here that was very touching and very well done. Compliments to Janice Jones for her beautiful voice.

I also want to say that I am going to miss Esther and Brian very much.

Councillor Sorg said I would like to keep our interveners in mind for the City when El Paso Electric gives their case that we consider energy conservation.

I would like to give my best wishes to Esther and Brian and their future.

I would like to request one set of speed bumps be taken out of the employee parking lot.

Councillor Small said I would like to thank Esther for her service and also, the City is fortunate to have had Brian.

With the Community of Hope, there has been many letters written looking to expand the safety of the structures. The Lions Club recently installed an outdoor kitchen donated by NMSU Band.

As far as the Las Cruces Symphony Orchestra, it is dangerous to have competing proposals before the Council on regularity.

I would like to thank Mr. Camarano for the Local Economic Development Act.

As far as mental health, I appreciated Mr. Eckman's proposal and want to thank that entire committee.

Councillor Pedroza said I echo the regret of losing Esther Martinez-Carrillo and Brian Denmark.

The 150th Anniversary of Juneteenth is going to be celebrated by the Doña Ana County NAACP on June 19th and 20th.

We need to do more work on the Community of Hope to expand the Housing First Program. Homelessness is not just based on the behavioral health aspect.

Councillor Silva said I also want to thank Esther and Brian for all their work and service throughout these years.

To the Chief, I did appreciate the memorial for the Las Cruces Fallen Soldiers and I compliment your department.

There was a report brought before us on the bus funding and our membership in the South Central Regional. It had no author and it was based on assumption. There was no reference to the pilot project that happened last year. I think we should look at improving our own system.

I think we need to come up with a policy on how we deal with community events.

Next week we will begin having District 1 meetings.

I just wanted to thank CVS for preserving the tiles that were on the Las Cruces Barbershop at one time.

Thursday marks the first official Red Nose Day in the US. It is poverty awareness and it is put on by Comedy Relief.

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c.) City Manager

Robert Garza, City Manager said El Paso Electric is planning more public meetings regarding the rate case. One is on June 3rd at the Doña Ana Government Building and they've asked to use our building for one of the public meetings. I want to mention that the Attorney General intervenes in rate cases on behalf of the public.

Do Esther or Brian have any comments that they would like to make?

Esther Martinez-Carrillo, City Clerk said thank you for the opportunity to grow in my career.

Brian Denmark, Assistant City Manager said I too would like to thank the City for all the opportunities given to me.

Councillor Smith Moved to Adjourn and Councillor Small Seconded the motion.

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

Council said "Aye."

Meeting Adjourned at 5:28 p.m.

Mayor

Interim City Clerk

(SEAL)