



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

Regular Meeting

December 7, 2015

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:

Robert Garza, City Manager
Rusty Babington, City Attorney
Linda Lewis, Interim City Clerk

I. OPENING CEREMONIES

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

Mayor Miyagishima and a volunteer from the Animal Services Center presented the Pet of the Week.

Councillor Eakman presented the Rotary Club essay winners.

Daniel Avila introduced Donald Bustos as a new Economic Development Specialist for the City.

Donald Bustos spoke on improvements in the permit department.

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 is none.

III. PUBLIC PARTICIPATION

Lori Allen, President of the Las Cruces Tennis Players Association and Annie Barva, Secretary of the LCTPA said we would like to say thank you to the City for resurfacing the courts at Lions Parks.

Councillor Levatino asked how many kids were involved with the Healthy Kids?

Lori Allen said in the summer we have 100 kids and we try to keep those programs going throughout the year.

Steve Calderazzo, Member of the Public said since this Council has been in office we have become a top 25 poorest city. We have some of the highest GRT's in the state, impact fees and park fees. The aquatic center is a nonrevenue generating waste of money. City Hall does not have streamlined processes. Efficiency in the permitting department has not changed. Investing into a Downtown Project has failed. The red light cameras, an unconstitutional law, was adopted in 2009 costing taxpayers. The Whole Enchilada Fiesta has disappeared. There is no accountability at City administration levels.

Mayor Miyagishima said you're welcome to work with me and share your concerns.

Donna O'Daniel, Member of the Public said I want to congratulate each of you for winning the election. I'm the Chairman of the Las Cruces Support Your Local Police Committee and you have been given a packet on what we do.

Gerald Bolin, Member of the Public said officers need to stay local and not get federalized. There are some licensees in town acting in a malicious way and would like legal to research on Memorial Medical Center declaring my woman incapacitated. There is elder abuse in Las Cruces.

Mayor Miyagishima said I'd like to meet with you to find different avenues.

Vince Jeffers, Member of the Public said I second what Mr. Bolin said. I wanted to thank the Councillors for getting more involved in what's happening in the mental health community. There are some licenses that need to be reviewed.

IV. ACCEPTANCE OF AGENDA

Mayor Pro-Tem Smith 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 November 2, 2015

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

- * (2) Resolution No. 16-112: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction to Amaro Winery and High Desert Brewing Company for the Public Celebration Permit Applications Submitted for the Las Cruces Chile Drop to be Held on December 31, 2015.
- * (3) Resolution No. 16-113: A Resolution Authorizing Amaro Winery to Continue with the Permitting Process to Allow for the Sale and Consumption of Wine within a Restricted and Secured Area at the Las Cruces Chile Drop to be Held on Main Street on December 31, 2015.
- * (4) Resolution No. 16-114: A Resolution Authorizing High Desert Brewing Company to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area at the Las Cruces Chile Drop to be Held on Main Street on December 31, 2015.
- * (5) Resolution No. 16-115: A Resolution Authorizing the City of Las Cruces to Accept Grant Funding in the Amount of \$20,000.00 from the Mortgage Finance Authority for the Development of an Affordable Housing Plan as Required by the State of New Mexico Affordable Housing Act, to Ratify the Assistant City Manager/COO's Signature on the Agreement and to Approve an Adjustment to the City's FY 2016 Budget.
- * (6) Resolution No. 16-116: A Resolution Authorizing the Las Cruces Police Department to Donate 6 Colt AR-15 Rifles with an Estimated Value of \$2,400.00 for Use by the Anthony Police Department Dona Ana County, New Mexico.
- * (7) Resolution No. 16-117: A Resolution Adjusting the City of Las Cruces FY2016 Budget to Accept from the New Mexico Economic Development Department (NMEDD) Funding for Local Economic Development Act (LEDA) Project - Ol' Gringo Chili Company (OGCC) in the Amount of \$25,000.00.

- ***(8)** Resolution No. 16-118: A Resolution Approving Agreement Between the Federal Bureau of Investigation and the City of Las Cruces, on Behalf of its Police Department, to Accept Funding to Cover Police Officer Overtime Expenses as Related to the Organized Crime Drug Enforcement Task Forces, to Ratify the City Manager's Signature on the Agreement and to Approve a Budget Adjustment to the FY 2016 Approved Budget.
- ***(9)** Resolution No. 16-119: A Resolution Providing for Determination of Reasonable Notice of Meetings of the City Council and its Boards and Committees for Calendar Year 2016.
- ***(10)** Resolution No. 16-120: A Resolution Establishing Dates for Holiday Observance for City Employees in 2016.
- ***(11)** Resolution No. 16-121: A Resolution Approving the Mayor's Appointment of Kent Yalkut to Act as Alternate Municipal Judge per LCMC Section 14-34 (c) 1.
- ***(12)** Resolution No. 15-16-109: A Resolution Awarding a Contract for the Crack Sealing Maintenance 2015-2016 Project to G. Sandoval Construction, Inc., of Las Cruces, New Mexico in the Amount of \$180,863.17, Plus \$15,034.25 for New Mexico Gross Receipts Tax; Authorizing the City Manager to Approve Change Orders in an Amount Not to Exceed \$9,043.16, for a Total Project Authorization in the Amount of \$204,940.58.
- ***(13)** Council Bill No. 16-010; Ordinance No. 2769: An Ordinance Enacting a New Subdivision XX of Division 3 (Nonstandard Boards) of Article IV (Boards, Commissions, and Committees) of Chapter 2 (Administration) of the Las Cruces Municipal Code, 1997, as Amended, Establishing the Economic Development Committee.

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

- (14)** Resolution No. 16-122: A Resolution Adopting the City of Las Cruces Event Sponsorship Policy.

Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-122 and Councillor Sorg Seconded the motion.

Philip San Filippo, CVB Executive Director gave an overhead presentation.

Councillor Sorg said this is good for promoting our City to the state and country and a good way to help startup projects and events.

Mayor Pro-Tem Smith asked would it make sense to put the two policies together under the Convention and Visitor's Bureau?

Philip San Filippo said there's one difference between the two policies. The first one is coming from general fund and the second one from lodger's tax. Lodger's tax is restricted to the use of promoting visitors to come to Las Cruces.

Councillor Pedroza asked is the committee already established?

Philip San Filippo said the committee was just a task force to work on these policies.

Councillor Pedroza asked are we suggesting to form a permanent committee to receive requests for funding?

Philip San Filippo said yes, two different groups. One to the CVB for lodger's tax and a panel that the City Manager would put in place for the general funds.

Councillor Pedroza asked would the lodger's tax funding go to events attracting people to come and visit?

Philip San Filippo said yes, people coming to stay overnight in our hotels. This would help those who don't fit under lodger's tax guidelines.

Councillor Pedroza asked is there a dollar amount limit?

Philip San Filippo said we have a CVB guideline.

Councillor Gandara asked what kind of measurement tools will you be using?

Philip San Filippo said every event is different and will have different standards. We want to measure obtainable objectives.

Councillor Gandara said I would like to see standards that would measure the events in the same way.

Philip San Filippo said our concerns coming up with standards is that there a variety of different types of events.

Robert Garza said rather than put it in the resolution we're going to come back to Council every year to budget for this program.

Mayor Miyagishima said I'm envisioning something similar to our Health and Human Services. When we approve amounts for organizations, we get a synopsis of what they're doing with it.

Councillor Gandara asked will there be a Council representative for each one of the committees?

Robert Garza said the CVB Board is set by ordinance and there are no elected officials on it and City management isn't involved either.

Mayor Miyagishima said if you have someone who would like to serve, please let me know.

Councillor Eakman asked will you be recommending that educational programs be given to the various folks who might be wanting to apply?

Philip San Filippo said the CVB will be hosting a workshop on how to run an event.

Councillor Levatino asked will the criteria be determined by the panel put together for the general fund?

Philip San Filippo said that is correct.

Councillor Levatino asked will that then come back to us for approval?

Robert Garza said it wouldn't come to Council via resolution. We would only identify it during the budget process.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-122 and it was Unanimously Approved. 7-0.

(15) Resolution No. 16-123: A Resolution Adopting the Las Cruces Convention and Visitors Bureau Event Sponsorship Policy.

Councillor Sorg Moved to Approve Resolution No. 16-123 and Mayor Pro-Tem Smith Seconded the motion.

Philip San Filippo, CVB Executive Director gave an overhead presentation.

Mayor Miyagishima asked have you ever used the New Mexico Park and Ride?

Philip San Filippo said yes we have used them and other vendors to bring people. We do help fund transportation to attract a convention. We are also hosting the Governor's Conference on Tourism this year.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-123 and it was Unanimously Approved. 7-0.

(16) Resolution No. 16-124: A Resolution Rescinding Resolution 15-193 for the Establishment of the Economic Development Committee Due to the Committee's Incorporation into the Las Cruces Municipal Code (LCMC), 1997, as Amended, as a Non-Standard Board.

Councillor Eakman Moved to Approve Resolution No. 16-124 and Councillor Sorg Seconded the motion.

David Dollahon, Community and Cultural Services Director gave an overhead presentation.

Mayor Pro-Tem Smith asked is this to clean up the current situation?

David Dollahon said this is nothing more than housekeeping.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-124 and it was Unanimously Approved. 7-0.

(17) Resolution No. 16-125: A Resolution Approving a Waiver from 100% of the Required Road Improvements to Mesa Drive, Sierra Vista Avenue and Jimmie Street Associated with a Proposed Subdivision Known as Gutierrez Subdivision on a 2.09± Acre Parcel Located at 5230 Mesa Drive. Submitted by Moy Surveying, Inc. On Behalf of Hortencia Gutierrez, Property Owner (S-15-018W).

Councillor Sorg Moved to Approve Resolution No. 16-125 and Councillor Levatino Seconded the motion.

Robert Kyle, Building Official gave an overhead presentation.

Councillor Pedroza asked where was it that you were talking about an amendment?

Robert Kyle said the Planning and Zoning Commission raised the issue of whether or not staff should bring to the Council to look at this requirement.

Councillor Pedroza asked is that generally?

Robert Kyle said correct.

Councillor Pedroza asked are you doing that now?

Robert Kyle said we have not received direction from the City Council.

Councillor Pedroza asked will the roadways return to the City and applicant no longer required to make road improvements?

Robert Kyle said if you approve the waiver, the applicant would not be required to make roadway improvements. She would dedicate the land to comply with the MPO Thoroughfare Plan.

Councillor Sorg said this is in the Mesa development. It was annexed into the City 30 years ago without any improvements. Are there plans to extend Midway Street to the east?

Robert Kyle said that is a local roadway and MPO is not involved.

Councillor Sorg asked how many houses can you have on this property?

Robert Kyle said if it's subdivided into two lots, you can have two homes.

Councillor Sorg asked could it be subdivided again?

Robert Kyle said it could.

Councillor Sorg asked is this serviced by our City wastewater?

Robert Kyle said it is on private septic tanks. City utilities has reviewed the request and recommended it remain in its current state.

Councillor Sorg asked would Dr. Garcia happen to know how close the wastewater lines are there?

Dr. Jorge Garcia said three of those streets have some sewer but it's limited. They were constructed with Federal funds.

Councillor Sorg asked can they still have their septic tanks due to the size of their lots?

Robert Kyle said that is correct. They exceed the minimum requirements from the New Mexico Environment Department.

Councillor Sorg said it has to be understood that if those roads are ever to be improved, the City will have to pay for it. We need to deal with this in a different way.

Robert Garza said a lot of the dirt roads in the City are private. This application dedicating the rights-of-way to the City is a major step.

Mayor Miyagishima asked can you clarify if they are going to sell this piece of property?

Robert Kyle said it is our understanding that she is seeking to subdivide the property so she can put it up for sale.

Mayor Miyagishima said I'm concerned that if we sell then others will want to sell to subdivide. If we did subdivide, could the owner lease the land?

Robert Kyle asked are you talking about the land not being subdivided?

Mayor Miyagishima said I'm talking about the land they're wanting to sell and instead renting or leasing the land.

Robert Kyle said the R-1A zone does not allow mobile homes. Manufactured homes could be brought in but you're limited to one per lot. I don't know how difficult it would be to put a deed restriction.

Councillor Levatino said we need to be careful of the assumptions we're making that people want the paved roads.

Councillor Sorg said I know many of the people who live in this area and have complained about repairing roads. Is there equestrian zoned in this neighborhood?

Robert Kyle said it is zoned residential estates mobile and would allow the keeping of animals.

Councillor Sorg asked would they only be required to pave half of the three roads?

Robert Kyle said there is a necessary right-of-way and they are responsible for 100% of that segment. They would be responsible for 50% of the collector but half the collector is a minor local roadway.

Councillor Sorg asked is Sierra Vista paved on the west side of Mesa Drive?

Robert Kyle said I believe it is.

Councillor Sorg said I agree with putting a lien on the property.

Mayor Miyagishima asked can you show us the 50% of which roads?

Robert Kyle said they would be required to build 100% of a local roadway along the entire frontage and on the east side of Jimmy Lane.

Mayor Miyagishima asked would they not be responsible for the 50% on the other side?

Robert Kyle said if they subdivide.

Councillor Pedroza said the County changed its subdivision laws in which the subdivider would be responsible for all roadway expenses.

Robert Kyle said in the ETZ if it is your first time subdividing you get the one time no improvement exception.

Mayor Miyagishima asked would the person who brought the property not be able to subdivide at all?

Robert Kyle said not without complying with the design standards.

Mayor Miyagishima asked what would they do with that land?

Robert Kyle said if someone wants to buy it and put a home on it they're able to do that.

Mayor Miyagishima asked can they still keep it a dirt road?

Robert Kyle said yes.

Mayor Miyagishima asked do you feel your department can prevent that from being subdivided again?

Robert Kyle said we wouldn't prevent it. We would apply the applicable rules of a subdivision.

Councillor Eakman asked are we waiving a requirement for a road where there are no roads?

Robert Kyle said we're waiving the requirement that the roads in place be improved.

Councillor Eakman asked is the request to waive for financial purposes?

Robert Kyle said I would defer to the applicant but most likely yes.

Alfonso Archuleta, Member of the Public said as a consultant I see this a lot. Their parents owned the property and now they need to sell it to survive. I was told by staff that you can only do a small subdivision of three. I don't think they could build on that land and make any money.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-125 and it was Unanimously Approved. 7-0.

(18) Resolution No. 16-126: A Resolution Adopting the Land Use Assumptions for the Public Safety Impact Fee Update as Required by Las Cruces Municipal Code Chapter 33, Development Impact Fee.

Councillor Sorg Moved to Approve Resolution No. 16-126 and Councillor Levatino Seconded the motion.

David Weir, Community Development Director gave an overhead presentation.

Councillor Pedroza asked what would trigger a review?

David Weir said it would be something drastic.

Councillor Pedroza asked would it be a self-correcting fee structure?

David Weir said it keeps pace with the growth.

Councillor Pedroza said I wouldn't want it to be dependent on somebody on the dais or staff to say it's not progressing.

Councillor Levatino asked how can this be self-correcting?

David Weir said the land use assumptions give you a process for maintaining your level of service community wide.

Councillor Levatino asked would we be revisiting this every five years?

David Weir said that is correct.

Councillor Levatino said I would have liked to know the process the consultants used because the numbers don't seem realistic.

David Weir said the consultants were provided information from a zoning map, proposed and approved development projects, the breakdown of land use, and building permit data. The last time land use assumptions were adopted they were half a percent higher so they've tried to reflect existing conditions. They used population projections adopted by the City.

Councillor Levatino said I don't think this is going to help things improve. How would the process work if we did a moratorium until the economy starts to improve?

David Weir said that's a policy question.

Chief Travis Brown said the action today is just to move forward with the fees. This will be used to establish the existing level of service.

Steve Chavira, CEO of the Las Cruces Homebuilders Association said we know it's just a framework. If we don't build any homes, we don't collect any fees but we want to build homes and want to make sure we've poised ourselves to build those homes. Other cities have placed a moratorium on the impact fees because they want to make it easier to get the development going.

Mayor Miyagishima asked what percent of homes is for retirees?

Steve Chavira said I can't say.

Mayor Miyagishima asked do you know what percent of GRT we get from the construction industry?

Steve Chavira said not off the top of my head.

Mayor Miyagishima said it's about 10%. Public safety impact fee only adds about \$2.50. Are there more resale homes on the market?

Steve Chavira said yes.

Councillor Eakman asked can you highlight the refinements between the first two drafts from TichlerBise?

David Weir said the main change was the growth rate and number of dwellings they anticipated over the time frame. They also made adjustments in the size of homes being built.

Councillor Sorg said if you don't have a homeowner pay for safety impact fees, then who will?

Councillor Levatino said of all the homes I've sold this year, not one has been to a retiree.

Alfonso Archuleta, Member of the Public said I ran a buying seminar and out of 18, only two will be building because of impact fees. The houses were too high for them to afford. We're seeing a setback in building.

Mayor Miyagishima said I'd like to chat with the 18 people and find out a little bit more.

Mayor Miyagishima called the roll on the Motion to Approve Resolution No. 16-126 and it was Approved. 6-1. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Mayor Pro-Tem Smith and Mayor Miyagishima voted aye. Councillor Levatino voted nay.

VIII. BOARD APPOINTMENTS

Councillor Gandara was appointed to the Board of Directors Animal Services, Extraterritorial Zoning Authority, South Central Solid Waste Authority, and Weed and Seed Advisory.

Councillor Eakman was appointed to the Lower Rio Grande Users Group, South Central Regional Transit District, Metropolitan Planning Organization, Board of Directors Animal Services, West Mesa Strategic Planning Committee, Extraterritorial Zoning Authority, and Economic Development Committee.

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).*

- (19) Council Bill No. 16-011; Ordinance No. 2770: An Ordinance Approving a Zone Change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) on a 1.93± Acre Parcel Located at 4301 E. Lohman Avenue. Submitted by JFAL Holding Company, LLC. (Z2890).

Mayor and Council agreed to bring back.

- (20) Council Bill No. 16-012; Ordinance No. 2771: An Ordinance Approving a Zone Change from C-2 (Commercial Medium Intensity) and R-2 (Multi-Dwelling Low Density) to C-3 (Commercial High Intensity) on 2 Parcels of 2.36± Acres Each and Located at 5101 Alba

Road. Submitted by Southwest Engineering, Inc. on Behalf of Manuel Carnero and Ramon Carnero, Property Owners (Z2889).

Mayor and Council agreed to bring back.

X. CITY COUNCIL MEMBER BOARD REPORTS

Councillor Levatino said there were two accidents on runway 8 but the pilots were not injured. Delta Airline Consultants came back on the 12th. Cruz Ramos is working closely with airport management and MVEDA to create marketing materials. The NMSU charter flights are still operating from our airport. The pavilion installation has been executed. One of the last times the state came to look at the airport we need to work on clearing and grating the runways so we finished that work. We have MBA students from NMSU working with the airport manager on a project to recommend a business plan.

XI. GENERAL DISCUSSION

a.) Mayor

Mayor Miyagishima asked Councillor Gandara to contact the winner of the ipad mini.

He said I met with Sylvia Hernandez, Regional Administrator for GSA and they're going to start building this point of entry in Columbus. She is going to do a seminar on how to do business with the Federal government.

He said people are renting out to avoid lodger's tax instead of staying at hotels.

b.) City Council

Mayor Pro-Tem Smith said in Washington, DC the Bureau of Indian Affairs is taking public comment on the tribes' efforts to become a federally recognized tribe. I would encourage our Mayor to send a followup letter reiterating our support or pass a newer resolution of the one we passed previously.

Mayor Miyagishima said I sent a letter on behalf of the Council and will do that again.

Councillor Sorg said at the National League of Cities Convention the emphasis was on economic development infrastructure. They had the largest attendance ever. They have a PowerPoint presentation on "Cutting Red Tape to Promote Business Growth." I also went to "What Makes Engaged Citizens."

Councillor Eakman said I wanted to thank City staff for attending a District 4 meeting last week.

He said Southern New Mexico Mental Health Feasibility Study will be completed in the middle of January. I hope that the City can play some role in that. Only three counties have agreed to be behind this proposal.

He said we had a summit on mental health a week and a half ago. La Clinica told us their biggest problem is the lack of psychiatrists. They can use eight psychiatrists. We need a strategic plan to recruit psychiatrists to Las Cruces.

Mayor Miyagishima said perhaps we could have a task force on mental health issues and you could lead that. You could dialogue with other organizations and use some City resources.

Councillor Pedroza said the mental health situation is very acute and I would be more than happy to help.

She said I went to the Early Christmas Play and they did a video where they buy spice to show that it is extremely easy to buy this. They also had a woman who made a presentation of her son who was in the Navy and died from using spice. She also had a drug test that was for this particular drug and is offering to sell it to mothers. I would like for them to come present.

She said Matt Holt and his sister are spearheading an effort to bring showers, kitchens and bathrooms to Camp Hope so I think we should get behind that.

Councillor Gandara said I met with Yoli Diaz who is a representative from CARE who said in February there will be a ribbon campaign that she would like us to help her with. There will be a kickoff event on February 6th and a Family Cancer Retreat July 1-3. She said she would also like to have an event to honor the Whole Enchilada Festival in September.

She said I wanted to see if we could support a resolution for the New Mexico Grown Fresh Fruits and Fresh Vegetables for Schools Meal Program.

c.) City Manager

Robert Garza said tomorrow at 9 a.m. we have a joint meeting with Las Cruces Public Schools. The Music Festival is a topic for tomorrow and the plan to move the event. We are going to delay that for another year.

He said park restrooms are all in place and functioning.

He said Coffee with a Cop will be at noon on Saturday.

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

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

Council said "Aye."

Meeting Adjourned at 4:50 p.m.



Mayor



Interim City Clerk

(SEAL)