



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

Regular Meeting

**June 1, 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
Esther Martinez, City Clerk

I. OPENING CEREMONIES

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

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and Jeannie Masaway presented the Pet of the Week.

Councillor Jones presented an Appreciation Medal to WWII Veteran Frank E. Clark.

Councillor Jones presented a Proclamation to Ruth Cantrell and declared June 2009 as Children's Theatre Workshop and Ruth Cantrell Appreciation Month.

Councillor Jones presented a Proclamation to Kevin Bixby and declared June 5th thru June 13, 2009 as Raft the Rio Week.

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?

Councillor Thomas said I want to recuse myself from Items 16 and 17 because my daughter is a City employee.

Councillor Connor said I want to recuse myself from Item 14 because my husband works for El Paso Electric

III. PUBLIC PARTICIPATION

None given.

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 8 needs to be removed from the Consent Agenda for discussion.

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

Mayor Miyagishima called for the roll on the Motion to accept the Agenda as Amended and it was Unanimously APPROVED. 7-0

V. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

***(1) Resolution No. 09-282: A Resolution Requesting the City of Las Cruces Accept Grant Funding From the State of New Mexico Children, Youth and Families Department (CYFD), Request for Capital Funding Application #7150, Domestic Violence Capital Fund, FY 2009**

in the Amount of \$635,384 Through the City of Las Cruces as Fiscal Agent on Behalf of La Casa, Inc.

- * (2) Resolution No. 09-283: A Resolution Authorizing the City of Las Cruces Police Department in Partnership With the Las Cruces Public School District to Apply for the U.S. Department of Justice, Community Oriented Policing Services, Secure Our Schools Grant Program in the Amount of \$214,780 and to Ratify the City Manager's Approval to Meet Grant Deadline.
- * (3) Resolution No. 09-284: A Resolution to Receive Grant Funding in the Amount of \$31,000 From the FY 2010 New Mexico Clean & Beautiful Grant Program and Authorize the City Manager's Approval to Accept the Award.
- * (4) Resolution No. 09-285: A Resolution Authorizing the City of Las Cruces Police Department in Collaboration with the Dona Ana County Sheriff's Office to Apply for the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program - Local Solicitation Offered by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance in the Amount of \$106,409.
- * (5) Resolution No. 09-286: A Resolution Authorizing the Las Cruces/Doña Ana County Metro Narcotics Agency to Apply for the Recovery Act: State and Local Law Enforcement Assistance Program: Combating Criminal Narcotics Activity Stemming From the Southern Border of the United States Grant, and to Ratify the City Manager's Signature to Meet the Grant Deadline.
- * (6) Resolution No. 09-287: A Resolution Approving and Adjustment to the TSB Enforcement Fund Budget for FY 08-09 and to Adjust the Fiscal Year 2008/2009 Budget.
- * (7) Resolution No. 09-288: A Resolution Authorizing the City of Las Cruces to Continue to Act as the Fiscal Agent for the Mesilla Valley Safety Council and to Submit an Application for a Grant in an Amount Not to Exceed \$60,627.67 to the New Mexico Department of Transportation.
- * (9) Resolution No. 09-290: A Resolution Authorizing the City to Accept Funding for a Supportive Housing Program Grant from the U.S. Department of Housing and Urban Development (HUD) and to Develop an Agreement with Mesilla Valley Community of Hope for Expenditure and Implementation of the Grant. The Resolution Further Authorizes the City Manager to Execute the Agreements with HUD and Mesilla Valley Community of Hope on Behalf of the City of Las Cruces.
- * (10) Resolution No. 09-291: A Resolution Establishing a Complete Count Committee for the City of Las Cruces for Census 2010.
- * (11) Resolution No. 08-09-536: A Resolution Awarding a Purchase Order to Springfield Armory/GT Distributors Agent in the Amount of \$52,601.50 for Police Department Pistols.

- *(12) Resolution No. 08-09-622: A Resolution Approving an Indefinite Cost, Indefinite Quantity Price Agreement for CPA Audit and Professional Services to REDW, LLC, the Rogoff Firm of Albuquerque, NM for a Three Year Term Conditioned Upon Annual Renewals by the State Auditor and Budgets Approved by City Council.
- *(13) Resolution No. 08-09-642: A Resolution Approving an Indefinite Cost Price Agreement for Janitorial Services to Maintenance Service Systems Inc., of Albuquerque, New Mexico for Year Two (2) of a Four Year Contract Subject to Approved Budget Appropriations and Annual Renewal Terms and Conditions From Original Bid No. 07-08-314.

VI. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

- *(8) Resolution No. 09-289: A Resolution Authorizing Exception to the Guidelines for the Naming of Streets and the Issuing of Addresses (Resolution 80-337), the Street Name Change Policy (Resolution 80-338) and Establishing Emergency Addressing and Street Naming Policy for the East Mesa Re-Addressing Project.

Councillor Connor Moved to Adopt Resolution No. 09-289 and Councillor Jones Seconded the motion.

Cheryl Rodriguez, Development Services Administrator gave a presentation and said staff is working on a re-addressing project in the East Mesa because there are duplicate addresses.

Councillor Archuleta asked has the affected residents been notified?

Cheryl Rodriguez said yes.

Councillor Jones said this is a safety issue because the Fire Department is getting confused with the duplicate addresses.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-289 and it was Unanimously APPROVED. 7-0

- (14) Resolution No. 09-292: A Resolution Approving Termination of the Facility License Agreement Between El Paso Electric and City of Las Cruces for the Use of the Window Lane at its Drive-Through Payment Processing Center.

Councillor Archuleta Moved to Adopt Resolution No. 09-292 and Councillor Silva Seconded the motion.

Mark Sutter, Finance Director gave a presentation and said we are in contract negotiations with Western Union to provide residents with nine different locations that they could go to pay their bill. Customers can also pay their bill by phone, online and we offer auto pay options.

Councillor Archuleta asked when is the drive up window going to close?

Mark Sutter said either by July 1st or August 1st.

Mayor Miyagishima asked will there be a fee for residents who pay their bill through Western Union?

Mark Sutter said I think it would be like a dollar charge.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-292 and it was APPROVED. 6-0-1 Councillor Connor Abstained.

- (15) Resolution No. 09-293: A Resolution Authorizing the Addition of the Madrid Avenue Extension Project from Anita Drive to Triviz Drive to the Infrastructure Roadway and Flood Control Capital Improvement Plan (CIP) for Fiscal Year 2009-2010 and 2010-2011.

Councillor Connor Moved to Adopt Resolution No. 09-293 and Councillor Archuleta Seconded the motion.

Dan Soriano, Traffic Engineering Administrator gave a presentation and said approval of this item would include this project with our upcoming CIP list. We have had several public meetings regarding this issue and in May, we had a work session to discuss it with Council. This would take care of a lot of the cut through traffic that is occurring in that area. The approximate total price for this project is about \$1.2 million.

Councillor Thomas asked does this have to go before the PNZ?

Dan Soriano said no.

Councillor Thomas said I am already getting emails and phone calls on this and I would like to have a town hall meeting to get all the issues out. Some of the people who live along Fairbanks have told me that the land we are planning on using to realign Fairbanks was donated to the City but that it had to remain empty.

Mike Johnson said we are investigating that issue.

Councillor Archuleta said I remember that we had a meeting back in 2001 where we agreed to leave this area as open space.

Mike Johnson said that is correct and we don't intend to develop the whole area.

Councillor Archuleta said this will affect three districts and when we have our public meetings then we can discuss things like bike paths and parkways.

Mike Johnson said we will have a kick off meeting to hear any conceptual ideas on what we would want to include in the project.

Councillor Jones asked does this need to go through a new study with the MPO?

Mike Johnson said no, as long as we are not planning on using any federal funding as part of the construction of this project.

Councillor Connor asked is the realignment going to be away from the residential backyards in that area?

Mike Johnson said that is the plan that we would like to see go forward.

Councillor Silva asked where is the funding going to come from for this project?

Mike Johnson said we are looking at doing the design in-house and we will probably use funding from the flood control fund or some other existing account.

Councillor Thomas said I do want to mention that there are two houses that use the back of their properties as an entrance.

Councillor Connor asked is Fairbanks going to remain open?

Dan Soriano said at this point in the process, I think it will remain open but we will bring it back to Council for a final decision.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-293 and it was Unanimously APPROVED. 7-0

(16) Council Bill No. 09-062; Ordinance No. 2525: An Ordinance to Amend (1) Las Cruces Municipal Code, Section 2-736, Personnel Appeals Board, to Delete the Section in its Entirety; and, (2) Las Cruces Municipal Code, Sections 22-154 Through 22-157, Personnel Appeals, to Create the Position of Personnel Appeals Hearing Officer With Associated Duties and Procedures.

Councillor Archuleta Moved to Adopt Council Bill No. 09-062; Ordinance No. 2525 and Councillor Connor Seconded the motion.

Councillor Archuleta Moved to Suspend the Rules and discuss Items 16 and 17 concurrently and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Suspend the Rules and discuss Items 16 and 17 concurrently and it was APPROVED. 6-0-1 Councillor Thomas Abstained.

Fermin Rubio, City Attorney gave a presentation and said we are discussing both items because the resolution implements the intent of the ordinance regarding the personnel manual. This would set out an appeal process and the employee will have the opportunity to have an attorney during the hearing which currently isn't available to them. If the employee chooses not to have an attorney then the City won't have an attorney either. This change would also require a record review by the City Manager or the presiding Municipal Court Judge and it would require an explanation on why the City Manager or Judge would not accept the decision of the Hearing Officer. The employee or the City would have 30 days to appeal that decision to the district court.

Councillor Connor said I don't have a problem with this new process but I do have an issue with the existing PAB members who weren't notified that these changes were going to take place and that they wouldn't be needed anymore.

Fermin Rubio said your comments are well taken.

Councillor Silva I have a problem with the City Manager being able to overturn the decision made by the hearing officer.

Fermin Rubio said that is the current process and the check on that is the appeals process to the District Court if the decision is overturned.

Councillor Archuleta asked is the hearing officer going to be an employee of the City?

Fermin Rubio said no, there will be an RFP for an attorney with an employment law background.

Councillor Archuleta asked is there going to be more than one hearing officer hired?

Fermin Rubio said we might want to have two hearing officers so if one has a scheduling conflict then we could use the other one.

Mayor Miyagishima said I think that the hearing officer process will help the employee better than the current process.

Russ Warner, Member of the Public said I agree with this change and it will provide more protection to the employee.

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 09-062; Ordinance No. 2525 and it was APPROVED. 6-0 Councillor Thomas was Absent.

- (17) Resolution No. 09-294: A Resolution Approving Amendments to Section 1102 of the City of Las Cruces Personnel Manual, *Employee Grievance*, to Provide for Appeals to a Hearing Officer With Associated Duties and Procedures, and to Make Stylistic Changes.

Councillor Archuleta Moved to Adopt Resolution No. 09-294 and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-294 and it was APPROVED. 6-0-1 Councillor Thomas Abstained.

VII. BOARD APPOINTMENTS

None given.

VIII. REVIEW OF PROPOSED ORDINANCE(S)

- (18) Council Bill No. 09-063; Ordinance No. 2526: An Ordinance Authorizing a Real Estate Purchase Agreement Between the City of Las Cruces and World Radio Network, for the Sale of a 0.9 Acres of Municipally Owned Land in the West Mesa Industrial Park for the Purchase Prices of Twenty Seven Thousand Dollars (\$27,000.00) in Accordance With Provisions of Section 3-54-1, NMSA, 1978, as Amended.

Mayor Miyagishima and Council agreed to bring this item back.

- (19) Council Bill No. 09-064; Ordinance No. 2527: An Ordinance Amending Ordinance No. 2495, *Safe Traffic Operations Program*, to Be Consistent With Legislative Amendments to New Mexico Statutes Annotated, Section 3-18-17, Including Fines, Appointment of a Hearing Officer, and the Conduct of Hearings, as Well as Making Various Stylistic Changes.

Mayor Miyagishima and Council agreed to bring this item back.

IX. STATUS/UPDATES ON CURRENT PROJECT LIST

1. **Strategic Plan** - *(Currently collecting information and obtaining feedback from executive leadership, elected officials, and citizens.)*
2. **Sustainability Officer** - *(Posting closed. One hundred and thirty one (131) applicants. Initial screening of applicant underway.)*
3. **Las Cruces Center** - *(Status report provided monthly on second, Regular City Council Meeting)*
4. **Downtown** - *(Design of the project construction plans is moving forward. Efforts are being made to incorporate public comments received at recent public input meeting. Initial site assessment for environmental portion of project underway.)*
5. **Impact Fees** - *(Consultant is presently revising Phase II ICIP report to incorporate recent City Council comments. Change order forthcoming to Council to cover additional costs for project.)*
6. **Aquatics Center** - *(Status report provided monthly on first, Regular City Council Meeting)*
7. **Vision 2040** - *(The consultants are finishing the drafts of the Vision 2040 Regional Plan and Dona Ana County Comprehensive Plan. The draft of the Las Cruces Comprehensive Plan is under review by city staff. After staff review and revisions, the draft plans will be presented for public review.)*

X. GENERAL DISCUSSION

1. Mayor

Mayor Miyagishima said I want to congratulate Arnold and Darlene Langston on their 62nd wedding anniversary.

The Texas legislator isn't allowing red light cameras anymore, can you comment on that issue?

Mike Johnson, Public Works Director said I haven't received a whole log of information on that issue so I would need to look into it further before I make any comments.

Fermin Rubio said I don't know if that has become law in Texas yet.

Mayor Miyagishima said in two weeks from now I will be bringing back a resolution regarding the Department of Peace as well as the exclusion of the statement "taking your vehicle away" from the red light camera citations.

Fermin Rubio said the ability to seize a vehicle is in the ordinance so we would need to change the ordinance as well. Chris Miller from the Police Department is working on tweaking some of the verbiage so it won't sound so harsh.

Mayor Miyagishima said I just want to convey to the public that the purpose of these red light cameras isn't to make money but to make our roads safe.

Fermin Rubio said we will be adding some rumble strips in addition to the signs to give people additional warning that they are approaching an intersection with a red light camera.

2. City Council

Councillor Archuleta said I want to give my compliments on the Thunder on the Rio Grande event, it was outstanding and everyone enjoyed it.

I attended the Music in the Park event on May 24th at Apodaca Park and people really enjoyed that event.

I would like to let the community know that Cecilia Oliver passed away and she was a long time resident of Las Cruces.

Councillor Thomas said I want to thank everyone who attended the District 6 meeting last week.

I want to apologize for not attending the opening ceremony last week for the new park in District 6 but I would like to express my appreciation to Brian Denmark and Mark Johnston for all the work they did on it.

Councillor Jones said I want to express my thanks to staff for conducting such a grand opening at the East Mesa Bataan Memorial Pool. I want to express my appreciation to Mr. Martinez for his dedication to our Veterans at that pool.

There was an article in the Sun News regarding a surface water treatment plant and it talked about a meeting with the Elephant Butte Irrigation District regarding the location of this treatment plant. From what I understood, the article stated that the location had already been decided on by the Utilities Board but I don't think that is the case.

There is an effort by NMDOT Park and Ride Express Inner-City Bus Service Expansion between Las Cruces and El Paso. It is a funding stream of about \$904,000 annually to fund a transit bus system between here and El Paso. Several entities have been asked to write letters of support regarding this issue and I will be signing one myself.

I want to thank the public that attended the public meeting last week at Ocate High School.

Councillor Small said I appreciate the help from the Community Development regarding some issues that we were having in District 4.

The initial funding from the stimulus package has moved forward and there seems to be a potential for a second round of funding to become available. There is an idea out there that we should look at a sustainable energy initiative that includes Dona Ana, Luna and Sierra counties. The idea I have is for staff to bring back to us an action item for us to be a part of this sustainable energy initiative and the goal would be to foster economic development, create well-paying permanent jobs, stabilize and reduce long term energy cost and protect our environment through wise development in southern New Mexico.

Councillor Thomas said we have five groups working on this initiative; one group is working on public building efficiency, one is working on private building efficiency, one group is working on the green grid, one group is working on transportation and the other group is working on the utilities scale renewables. I am part of the transportation group and we are interested in finding a way to connect our City to the Rio Grande trail.

Councillor Small said I would like to ask for a consensus to move forward with this item.

Mayor Miyagishima and Council gave consensus.

Terrence Moore said we will bring forward a resolution regarding this issue in time for the June 15th meeting.

Councillor Connor said the lighting is done for University Estates; however, I drove through there last night and it doesn't appear that they are on. Can you tell me when they will be turned on?

Mike Johnson said I believe there is a final inspection scheduled for June 10th and then shortly thereafter they will be energized.

Councillor Connor said Mr. Moore and myself recently met with the Sister City board which hadn't met in about eighteen months and there is currently work being done to reinstate this board. There is a web page that you can look at if you are interested in serving on this board.

Regarding the stimulus funding, we have a need for a new Mesilla Valley Regional Dispatch Authority building which is our 911 center. Last week, there was a water leak at this center and it shut down the system for a while. We do have a backup system so it was taken care of but our public safety needs to be a top priority. The 911 center doesn't meet the Home Land Security rules because it is located in the middle of town and this facility is very difficult to utilize. Currently, that building is owned by Dona Ana County and a new facility would cost approximately \$6 million.

Mayor Miyagishima said I know a few years ago there were issues with false alarms. I agree that we do need a better facility. There are two ways we could use to handle this; one is that the City and County can come up with the additional funding which could be very difficult, or two is that we change the joint powers agreement to agree that they can go out and get their own funding.

Councillor Connor said we have gone as far as the State level and there was a suggestion to have a user fee in place.

Chief Romero said we have been looking into the false alarm calls and there is a vendor who has software that would take care of that problem but we are continuing to look into that issue.

Councillor Archuleta said I just want to mention that the Sister City board is still alive and well even though we haven't met in over a year. We lost two members which were husband and wife, to cancer within a year of each other which set us back a little bit.

Councillor Silva said we received an email regarding a sizeable delinquent account that is still in service and I wanted to know what our policy is regarding service to delinquent accounts?

Jorge Garcia, Utilities Department said our policy states that after 90 days, we have the right to shut off the services to a property. In that case, we have construction water which isn't a permanent account and we met with the property owner to get a payment agreement but we never received it. In March, the attorney's office filed the first lien and then they filed a second lien and when we have exhausted all the reasonable remedies, the Municipal Code gives us the authority to shut down the business.

Councillor Silva said there was an article in Saturday's newspaper regarding the Downtown Mall and the Humane Society not being allowed to have pet adoptions. I liked the Mayor's response which was that the City has to follow the rules as well. I serve on the Animal Services board and I hope that we can change that ordinance because being at the mall would give us the opportunity to educate the public on how to care for their animals.

I want to congratulate Kay and her staff for opening the Las Cruces Academy on Saturday.

I want to congratulate everyone who is involved with the Music in the Park program which was kicked off last week with Jazz in the Park.

Mayor Miyagishima said regarding the animals in the Downtown Mall issue, is there a consensus for management to take a look at that ordinance to see if maybe we could do something like a special use permit?

Councillor Connor said Olivia Hennessy and Christine Logan have been working on that for the past few weeks.

Terrence Moore said they are working on clarifying the legal responsibilities that we have and don't have regarding that issue. If a consensus is given then we could bring something back by the July 6th meeting.

Councillor Jones said it would be nice to hear from the Animal Services board regarding that issue.

Mayor Miyagishima and Council gave consensus.

3. City Manager
 - C. "South Jornada Water Tank Mural"; an update regarding Utility Board selection.

Jorge Garcia, Utilities Director gave a presentation and said we received several comments from the residents in that area stating they would like to see a mural on that water tank. We were able to obtain some funding to cover the cost of a mural within this project. We had a neighborhood meeting at which we showed them some samples of Mr. Pennock's work and the consensus from the neighbors was that they liked the composite rendering.

Tony Pennock, Artist gave a presentation and said we want to preserve the water tank and not hide it but enhance it.

Councillor Archuleta said the Utilities Board has already approved this but we thought it would be nice for Council to see the design.

Councillor Connor said it is a very beautiful design.

A. Status of Citywide Swimming Pool Enhancement Program.

Brian Denmark, Facilities Director gave a presentation and said the Regional Aquatic Center is proceeding smoothly and we are about 16% completed at this time.

On June 16th there will be an open house for the Convention Center to give the public an opportunity to view the plans for the center. The ground breaking ceremony is scheduled for June 24th at 10:00 a.m.

B. Update Regarding Downtown Revitalization Activities.

William Slettom, Downtown Development Coordinator gave a presentation and said we are looking at four sites for the Downtown signage. One of the projects we are working on is the Phantom Window project which is where artwork is placed on the windows of the businesses in that area.

D. Other Items - Information Only

None given.

Meeting Adjourned at 3:40 p.m.



Mayor

ATTEST:



City Clerk

(SEAL)