City Council
of the
City of Las Cruces

Regular Meeting

June 6, 2016
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:

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

STAFF:

Daniel Avila, Interim City Manager
Rusty Babington, City Attorney
Christine Rivera, Deputy City Clerk

I. OPENING CEREMONIES

Mayor Pro-Tem Smith called the meeting to order. Councillor Gandara lead the Pledge of Allegiance.

Al Chance sang the National Anthem.

Jennifer Martinez from PIO presented the Pet of the Week.

Ashley Curry, LCPS Safe Routes to School Coordinator gave an overhead presentation.

Councillor Gandara presented a Proclamation and declared Sunday, June 19th as Juneteenth Day.

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 Pro-Tem Smith asked if anyone had any conflicts with anything on the agenda?

There were none.

III. PUBLIC PARTICIPATION

Monte Shriver, Member of the Public said last Friday there was an event by Off Road New Mexico. They were going through the habitat preservation area. There were over 200 cars and they were very loud. Residents started calling at 8 p.m. but there wasn't affirmative action until 10:30 p.m. I hope you will consider putting up signs for no motorized vehicles.

Chief Jaime Montoya said I received numerous emails from the community. We looked into it right away and also met this morning to discuss our options going forward. The City did not sanction this event. We are working to put signage in that area.

Representative Bill McCamley said the Community of Hope is losing a $23,000 grant and I am here to take responsibility. I'm requesting that if the City has the capacity to help to work with Nicole on this.

Nicole Martinez, Director of Mesilla Valley Community of Hope said we are facing budget shortfalls and if there is anything the City can do we would greatly appreciate it.

Peter Ossorio, Member of the Public said I hope by taking action on the Community of Hope that Las Cruces will show it is a caring community.

IV. ACCEPTANCE OF AGENDA

Councillor Levatino Moved to Approve the agenda as amended with the removal of items 3, 6, and 10 from the consent agenda and Councillor Eakman Seconded the motion.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve the agenda as amended with the removal of items 3, 6, and 10 from the consent agenda and it was Approved. 5-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Councillor Sorg and Mayor Miyagishima were absent.

V. CITY COUNCIL MINUTES

*(1) Regular City Council Meeting of May 16, 2016

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

*(2) Resolution No. 16-228: A Resolution Authorizing a Memorandum of Understanding Between the City of Las Cruces on Behalf of its Police Department, and New Mexico State University, to Accept a Grant Award in the Amount of $15,000.00, to Ratify the City Manager's Signature on the Agreement, and to Adjust the FY16 Budget.

*(4) Resolution No. 16-230: A Resolution Approving a Memorandum of Agreement Between the City of Las Cruces, on Behalf of its Police Department, and Doña Ana County to Award Grant Funding to the City in the Amount of $39,867.12 from the New Mexico Department of Homeland Security and Emergency Management Through Doña Ana County, to Ratify the City Manager's Signature on the Memorandum of Agreement and to Approve an Adjustment to the FY 2016 Budget.

*(5) Resolution No. 16-231: A Resolution Authorizing a Memorandum of Understanding Between the City of Las Cruces on Behalf of its Police Department, and Las Cruces Public Schools, for the LCPD's Youth Leadership Academy and to Ratify the City Manager's Signature on the Agreement.

*(7) Resolution No. 16-233: A Resolution Authorizing an Assignment of Land Lease for Parcel 34 at the Las Cruces International Airport from Gail J. Mathews, AKA Jackson, Fields, & Mathews, LLC to Lynco Flight Services, LLC.

*(8) Resolution No. 15-16-167: A Resolution Amending Purchase Resolution 14-15-084 to an Indefinite Cost/Indefinite Quantity to Taser International, Inc. Of Scottsdale, AZ, for the Purchase of Taser Axon Flex Body Cameras, Related Equipment, License and Video Storage, Subject to Approved Budget Appropriations and Annual Renewals.

*(9) Council Bill No. 16-022; Ordinance No. 2782: An Ordinance Approving a Zone Change from C-1 (Commercial Low Intensity) to C-1/R-2 (Commercial Low Intensity/Multi-Dwelling Low Density) for a 0.29± Acre Parcel Located at 3899 Nemesh Drive. Submitted by Mark Stuve, Property Owner (62718).

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

(3) Resolution No. 16-229: A Resolution Authorizing the City of Las Cruces, on Behalf of the Southwest Border High Intensity Drug Trafficking Areas (HIDTA) Program New Mexico, to Accept a Grant Award in the Amount of $1,590,104.00 for Grant Award Number G16SN0006A from the Executive Office of the President, Office of National Drug Control

Policy, to Ratify the Mayor's Signature on the Grant Agreement and to Adjust the FY 2016 Budget.

Councillor Eakman Moved to Approve Resolution No. 16-229 and Councillor Gandara Seconded the motion.

Councillor Pedroza said I would like to know how the money is going to be used.

Chief Jaime Montoya said this is a program through the Federal government. The majority is for rent of the HIDTA facility and for positions.

Councillor Pedroza asked would it be possible to have a work session?

Chief Jaime Montoya said I will ask the HIDTA Board if they would like to do a presentation.

Councillor Eakman Moved to allow Councillor Sorg to participate via telephone Councillor Levatino Seconded the motion.

Mayor Pro-Tem Smith called for the roll on the Motion to allow Councillor Sorg to participate via telephone and it was Approved. 6-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Mayor Miyagishima was absent.

Councillor Sorg entered the meeting at 1:36 p.m.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Resolution No. 16-229 and it was Approved. 6-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Mayor Miyagishima was absent.

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(6) Resolution No. 16-232: A Resolution Authorizing the Write-Off of Uncollectible Utility and General Billing Accounts Receivable for the Fiscal Year 2011 in the Amount of $895,157.62.

Councillor Levatino Moved to Approve Resolution No. 16-232 and Councillor Gandara Seconded the motion.

Joe Provencio, UtilitiesAdministrative Services Administrator said this is an annual resolution that we submit for accounts receivable adjustments for unpaid accounts at least four years old.

Councillor Levatino asked is there another method we could be using that would be more successful in collecting some of this?

Joe Provencio said prior to 2012, customer service reported to the treasury department. Since then, they have made progress in reducing unpaid balances.

Councillor Eakman said the write off does not show that you are not actively collecting.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Resolution No. 16-232 and it was Approved. 6-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Mayor Miyagishima was absent.

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(10) Council Bill No. 16-025; Ordinance No. 2784: An Ordinance Repealing Las Cruces Municipal Code (LCMC), 1997, Section 2-977, Membership, Pertaining to the Veterans Advisory Board, and Enacting a New Section 2-977.

Councillor Eakman Moved to Approve Ordinance 2784 and Councillor Gandara Seconded the motion.

Councillor Levatino asked why was that VFW post pulled?

Christine Rivera, Deputy City Clerk said it had been vacant for a long time and they were unable to fill that position.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Ordinance No. 2784 and it was Approved. 6-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Mayor Miyagishima was absent.

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(11) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 16-234; A PUBLIC HEARING MUST BE HELD:** Resolution No.16-234: A Resolution Approving the Issuance of a Restaurant Beer and Wine License, with On Premise Consumption Only and Patio Service, to the Thyme of Your Life, Inc. D/B/A Salud De Mesilla, Located at 1800 Avenida De Mesilla, Suite B, Las Cruces, New Mexico.

Mayor Pro-Tem Smith said the Public Hearing for Resolution No. 16-234 is now open. Is there anyone who wishes to speak against this item?

Russell Hernandez, Owner of Thyme of Your Life said we're looking forward to the possible passing of this ordinance and being responsible business owners.

Mayor Pro-Tem Smith said the Public Hearing for Resolution No. 16-234 is now closed.

Councillor Eakman Moved to Approve Resolution No. 16-234 and Councillor Levatino Seconded the motion.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Resolution No. 16-234 and it was Approved. 6-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Mayor Miyagishima was absent.

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(12) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 16-235; A PUBLIC HEARING MUST BE HELD:** Resolution No.16-235: A Resolution Approving the Transfer of Ownership of Liquor License No. 2772, with On Premises Consumption and Patio Service, to Sonoma Ranch Duffers, LLC D/B/A Sunset Grill, Located at 1274 Golf Club Road, Las Cruces, New Mexico.

Mayor Pro-Tem Smith said the Public Hearing for Resolution No. 16-235 is now open. Is there anyone who wishes to speak against this item?

Dale Schueller, Partner with Sonoma Ranch Duffers said this is just a transfer back to Sonoma Ranch from Las Cruces Country Club a little over a year ago.

Mayor Pro-Tem Smith said the Public Hearing for Resolution No. 16-235 is now closed.

Councillor Levatino Moved to Approve Resolution No. 16-235 and Councillor Eakman

Seconded the motion.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Resolution No. 16-235 and it was Approved 6-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Mayor Miyagishima was absent.

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(13) Resolution No.16-236: A Resolution Authorizing the Issuance of a Proclamation Declaring Severe or Extreme Drought Conditions and Imposing Restrictions on the Use of Fireworks within the City Limits.

Councillor Eakman Moved to Approve Resolution No. 16-236 and Councillor Levatino Seconded the motion.

Ted Sweetser, Fire Marshall gave an overhead presentation.

Jimmy Nevarez, Member of the Public said I'm with Planet Fireworks said you can enact this 20 days prior to July 4th, which is June 15th. The Palmer has lowered since last week. I would recommend postponing to see if the conditions worsen.

Councillor Pedroza asked how will the public be made aware of what the restrictions mean?

Ted Sweetser said our suggestion is to do a press release. This has no effect on what fireworks can be sold in the City. It is just where you can light them.

Councillor Pedroza asked how do you calm the fears of the residents that their homes will not catch fire?

Ted Sweetser said in my experience most people light their fireworks on a paved surface, which is usually enough distance to keep the fires from occurring. We also have people who alert us.

Councillor Levatino asked would it effect your ability to make sure the public understands the restriction if we wait until the next meeting to determine what the Palmer numbers will be?

Ted Sweetser said that meeting pushes the date too far out.

Councillor Gandara asked when can an establishment begin selling fireworks?

Ted Sweetser said sales begin June 20th.

Councillor Gandara asked is it possible to wait and have an emergency meeting on Tuesday?

Mayor Pro-Tem Smith said as late as the 15th.

Rusty Babington, City Attorney said we have to call either a special meeting or emergency meeting. We need three days notice for a special meeting.

Councillor Levatino asked is that something that we need to do today?

Rusty Babington said the Mayor or Mayor Pro-Tem has the ability to call a special meeting. If you table the resolution, I'd like a date certain.

Mayor Pro-Tem Smith said I would suggest tying it in with Monday's work session.

Councillor Levatino Moved to Table Resolution No. 16-236 until June 13th and Councillor Gandara Seconded the motion.

Mayor Pro-Tem Smith called for the roll on the Motion to Table Resolution No. 16-236 until June 13th and it was Approved 4-2. Councillor Gandara, Councillor Eakman, Councillor Levatino, and Mayor Pro-Tem Smith voted aye. Councillor Pedroza and Councillor Sorg voted nay. Mayor Miyagishima was absent.

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(14) Resolution No.16-237: A Resolution Approving the Parks and Recreation Department 2016/2017 Fees and Charges/Facility Use Policy and Repealing Resolution 15-204.

Councillor Eakman Moved to Approve Resolution No. 16-237 and Councillor Pedroza Seconded the motion.

Sonya Delgado, Parks and Rec Director gave an overhead presentation.

Councillor Pedroza is it possible to add a youth member to the board?

Daniel Avila, Interim City Manager said yes but you would have to change the ordinance.

Councillor Gandara said I agree with adding a youth member. I wanted to ask about the liability insurance as I have constituents concerned.

Sonya Delgado said we do have to have some liability insurance but it is usually for organizations that have their events open to the entire community.

Councillor Gandara asked do you know the cost of that insurance?

Sonya Delgado said I've been told it's relatively inexpensive.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Resolution No. 16-237 and it was Approved. 5-1. Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Councillor Gandara voted nay. Mayor Miyagishima was absent.

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(15) Resolution No.16-238: A Resolution to Adjust the Adopted Fiscal Year 2015-16 Budget Allowing for Adjustments within Various Line Item Budgets and Transfer Accounts Due to End-of-Year Review of Revenues and Expenditures.

Councillor Eakman Moved to Approve Resolution No. 16-238 and Councillor Sorg Seconded the motion.

Robert Coleman, Budget and Grants Manager gave an overhead presentation.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Resolution No. 16-238 and it was Approved. 6-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Mayor Miyagishima was absent.

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(16) Resolution No.16-239: A Resolution to Adopt the Las Cruces Urban Agriculture and Food Policy Plan.

Councillor Pedroza moved to Approve Resolution No. 16-239 and Councillor Gandara Seconded the motion.

Srijana Basnyat, Senior Planner gave an overhead presentation.

Krysten Aguilar, Food Planning and Policy Coordinator for La Semilla Food Center gave an overhead presentation.

Councillor Sorg said I hope we can eliminate the food shortage with this policy.

Councillor Eakman asked do you plan to come back and answer questions in the vision statement?

Krysten Aguilar said it can be brought back depending on scheduling with staff. Prioritizing will take a couple of months.

Srijana Basnyat said we don't have a time line but we do try to time our future projects with allocation processes.

Councillor Eakman said I would like to see more material brought forward.

Councillor Pedroza said some of the things we need more information on could be brought up during a work session. We need to look at community gardens more as there is a relationship between buyers and the school district.

Councillor Levatino said I want to support this but I agree with Councillor Eakman that we need more information.

David Weir, Community Development Director said plans usually set out the vision and goals to establish policy. If we don't adopt a plan, we won't have direction.

Councillor Eakman said in my mind a plan has more to it and I feel like this is like signing a blank check.

David Weir said this is not a financial plan. It is policy. We support healthy foods within the community and there are 33 strategies to go about that.

Councillor Gandara said I support this but have reservations about it being very general. I'd like to see some outcomes and deliverables.

Councillor Pedroza asked will the City Council be giving up its ability about spending money in the future?

David Weir said no.

Councillor Sorg said we are just agreeing with the goals, objectives and recommendations.

Srijana Basnyat asked do you wish us to come back with a plan and implementation plan?

Councillor Eakman said yes.

David Cresswell, Member of the Public said Las Cruces has the opportunity to be a paradigm for the state with this plan. I would approve this as a conditional consensus and work out the details later.

Linda Dallas, Member of the Public said I agree with this but there are a lot of holes that need to be defined. More educational outreach will be needed.

Nathan Small, Former Councillor said this is about economic opportunity, individual freedom and choice, and collectively seeing Las Cruces as an agricultural region. Budget contributions will be smaller than you think.

Councillor Eakman Moved to Table Resolution No. 16-239 until September 6, 2016, and Councillor Levatino Seconded the motion.

Mayor Pro-Tem Smith called for the roll on the Motion to Table Resolution No. 16-239 until September 6, 2016, and it Failed. 2-4. Councillor Eakman and Councillor Levatino voted aye. Councillor Gandara, Councillor Pedroza, Councillor Sorg and Mayor Pro-Tem Smith voted nay. Mayor Miyagishima was absent.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Resolution No. 16-239 and it was Approved. 4-2. Councillor Gandara, Councillor Pedroza, Councillor Sorg, and Mayor Pro-Tem Smith voted aye. Councillor Eakman and Councillor Levatino voted nay. Mayor Miyagishima was absent.

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(17) Council Bill No. 16-024; Ordinance No. 2783: An Ordinance to Repeal and Replace in its Entirety Section 38.43 "CBD - Central Business District and Main Street Plaza Overlay Zone" of the Las Cruces Municipal Code (LCMC), 1997, as Amended to Adopt a New Section 38.43 "Downtown Development Code".

Councillor Pedroza Moved to Approve Ordinance No. 2783 and Councillor Eakman Seconded the motion.

Tim Pitts, Acting Planning and Neighborhood Services Administrator gave an overhead presentation.

Councillor Eakman asked what would be maintained from the traditional code in the form based code?

David Weir said the format will be similar. The difference is build to lines and facade phasing. The uses will be more general.

Councillor Eakman asked how will the codes relate to each other?

Tim Pitts said we have a small staff working together but you will be getting rid of the CBD code and replacing it with this code.

David Weir said the building code and standards will still be in effect.

Councillor Eakman asked have you discussed how you plan on insulating the City against potential legal challenges?

David Weir said the building code is overseen by the state and our inspectors are expected to be certified by them. All of our codes have an appeal process.

Councillor Eakman asked how do you plan on establishing fairness and equality?

David Weir said we go back to the code to make sure minimums are met, we look at past practices and precedents, and we also look at plans for that area that have been adopted.

Councillor Gandara asked how will you promote the vacant buildings being there and are they required to meet the standards?

Tim Pitts said we are not asking them to make renovations. We have the infill development process, which gives incentives for redevelopment.

Councillor Gandara asked what other incentives might there be for the property owner?

Tim Pitts said variances and they don't need to provide parking.

Marian Kathleen, Member of the Public said the Downtown is a ghost town with vacant buildings. I think the form based code does not have an advocacy for local business owners.

Steve Newby, Member of the Public said as a local architect we want to work closely with City staff to implement this code.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Ordinance 2783 and it was Approved. 6-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Mayor Miyagishima was absent.

Councillor Sorg left the meeting at 4:19 p.m.

VIII. BOARD APPOINTMENTS

Councillor Levatino appointed Paul L. Royalty to the Parks and Rec Advisory Board.

Mayor Pro-Tem Smith reappointed Bill King to the Senior Programs Advisory Board.

Councillor Gandara Moved to Approve Mayor Pro-Tem Smith's reappointment of Bill King to the Senior Programs Advisory Board and Councillor Levatino Seconded the motion.

Mayor Pro-Tem Smith called for the roll on the Motion to Approve Mayor Pro-Tem Smith's reappointment of Bill King to the Senior Programs Advisory Board and it was Approved. 5-0. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Levatino and Mayor Pro-Tem Smith voted aye. Councillor Sorg and Mayor Miyagishima were absent.

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

There were none.

X. CITY COUNCIL MEMBER BOARD REPORTS

There were none.

XI. GENERAL DISCUSSION

a.) Mayor

Mayor Pro-Tem Smith said there is discussion about reconfiguring the Historic Preservation Ad Hoc Committee because of a struggle to have a quorum for meetings.

He said it is discouraging not to see a bus shelter by the Burlington Northern Santa Fe so I would ask staff to find how a bus stop can be put on a city right-of-way instead.

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b.) Council

Councillor Levatino said I know the Mayor wanted to consider public funds to help alleviate some of the financial stress from the Community of Hope. I would like to propose that we use our discretionary funds.

Mayor Pro-Tem Smith said typically we try to avoid using funds after the beginning of June.

Daniel Avila, Interim City Manager said we've discussed it and we don't have a reason why you couldn't do that.

Councillor Levatino said I received an email from one of my constituents over the weekend who is blind and he uses the bus to get to work but with the new routes he can't get to work any longer. I'd like us to look at putting bus stops along Solano.

Daniel Avila said we will work with this gentleman. Dial-A-Ride does provide free service for disabled.

Councillor Eakman said I would also like to help the Community of Hope and I want to thank Nicole Martinez.

Councillor Pedroza said I would be more than happy to donate some discretionary funds.

She said there are two groups who would like to address City Council during a work session, representatives from Viva Doña Ana and the Piro Pueblo constituents.

She said there will be voting convenience centers for voting in the general election and there will be free transportation.

Councillor Levatino left the meeting at 4:30 p.m.

Councillor Gandara said I also have funding leftover and would be happy to donate to Community of Hope. I think we should also look into the Health and Human Services fund.

She said the suicide task force will be meeting on June 20th at the Double Eagle.

She said I participated in the Zoot Suit Pachanga and it was a huge success.

She said I've received concerns about weeds and litter. I'd like us to put a schedule on our website of when the crews go out.

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c.) City Manager

Daniel Avila, Interim City Manager said tomorrow we are having free rides for the New Mexico Primary Election. For a list of voting convenience centers, you can go to the County website.

He said the Metro Verde Splash Park was a huge success.

Councillor Eakman Moved to Adjourn and Councillor Gandara Seconded the motion.

Mayor Pro-Tem Smith said all of those in favor signify by saying "Aye."

Council said "Aye."

Meeting Adjourned at 4:38 p.m.

Mayor

City Clerk

(SEAL)