City Council
of the
City of Las Cruces

Special Meeting

June 13, 2016
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:

Daniel Avila, Interim City Manager
Rusty Babington, City Attorney
Linda Lewis, City Clerk

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

Mayor Miyagishima read a letter to the Mayor of Orlando, Florida.

Jennifer Martinez with PIO presented the Pet of the Week.

I. 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 said Jimmy Nevarez is a colleague of mine but there is no financial conflict.

II. RESOLUTION FOR DISCUSSION

(1) 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.

Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-236 and Councillor Sorg Seconded the motion.

Ted Sweetser, Fire Marshall said this resolution was tabled from last week. It does not ban what can be sold. It is only for the location of where you can light the fireworks, which are paved and barren lands. A letter has been provided from the Governor urging all municipalities to discuss this. If we have a lot of rain fall, we can always rescind this.

Mayor Pro-Tem Smith asked is there anything in the week that has passed that can give us additional guidance?

Ted Sweetser said drought conditions did improve from -2.3 to -1.9.

Councillor Sorg asked can you explain how the index number changed?

Ted Sweetser said they publish the number Monday to Monday from a weather station.

Councillor Pedroza said weather patterns around the City change so I don't think conditions are good for lighting fireworks.

Mayor Miyagishima asked what is the difference between what residents can do today and if the ban should go through?

Ted Sweetser said if the ban is enacted today all it is doing is restricting the location in which you can light it.

Councillor Eakman asked how will this be enforced by the City?

Ted Sweetser said back in the 2000s we were having some problems with aerial fireworks so we enacted a fireworks patrol in which fire, PD and codes enforcement team up for that night.

Councillor Pedroza asked are you asking constituents to call in if they see violations?

Ted Sweetser said we do ask them to call.

Councillor Pedroza asked how will you let everyone know about this?

Ted Sweetser said through PIO and social media platforms in English and Spanish.

Jimmy Nevarez, Member of the Public said the current drought score is near normal. The City must be in extreme or severe drought conditions to enact an ordinance and we are not. There is no burn ban in Las Cruces. We're the only municipality considering this right now.

Councillor Eakman asked how will a restriction effect the sale of fireworks?

Jimmy Nevarez said it won't effect the sales but I do hear from customers about tickets. I just think we shouldn't enact it if we're not in those conditions.

Councillor Eakman said we have to forecast 15 days ahead of time.

Councillor Sorg said I'd like a legal opinion.

Rusty Babington, City Attorney said I would refer to the section in the code that refers to droughts where it does not define what an extreme or severe drought is and says City Council can pass a resolution.

Councillor Sorg said I would rather decide on the safe side. If things significantly change, we can take this restriction off.

Councillor Pedroza said I would prefer to lose a lawsuit than lose a family.

Councillor Levatino asked does state law supercede what we have on the books?

Rusty Babington said we are consistent with state law. The only difference is that we use the word "potential." The state statute doesn't mandate that we impose restrictions.

Councillor Levatino said I think that we should do everything we possibly can to make sure the public understands this.

Councillor Gandara said I want to err on the side of caution.

Mayor Miyagishima asked are those numbers used to determine the definition of a drought?

Ted Sweetser said it's the measure of the moisture in the soil.

Mayor Miyagishima asked did we pass this last year?

Ted Sweetser said last year we were in the 0.1 area.

Mayor Miyagishima asked did we pass it the years before that?

Ted Sweetser said yes.

Mayor Miyagishima asked in your opinion what is the minimum amount for extreme drought?

Jimmy Nevarez said even in 100 degree weather the highest it will probably get is -2.3 so I wouldn't agree with the resolution unless it was a -3.0.

Ted Sweetser said in 2014 City Council did enact and it was at a -2.86 so we have passed it under a -3.

Mayor Miyagishima asked are these indexes published every Monday or daily?

Ted Sweetser said every Monday at 1:00 p.m.

Mayor Miyagishima said I propose that we amend it to say the ban automatically goes into effect if it hits -2.5 or greater and otherwise we strongly encourage residents to be proactive when lighting fireworks.

Mayor Pro-Tem Smith said we are required to put something in place 20 days prior to the event so I suggest if the indices drop then it would release the ban.

Rusty Babington said the state statute requires that 20 days prior to the holiday you issue the ban and then if conditions change you can rescind the proclamation.

Mayor Miyagishima asked is there a way to clarify that this will not effect vendors?

Daniel Avila, Interim City Manager said we will run radio ads and through our PIO office in English and Spanish.

Mayor Pro-Tem Smith Moved to Amend Resolution No. 16-236 to change the date from June 6 to June 13, 2016 throughout the document and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 16-236 to change the date from June 6 to June 13, 2016 throughout the document and it was Unanimously Approved. 7-0.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-236 as amended and it Unanimously Approved. 7-0.

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 2:03 p.m.

Mayor

City Clerk

(SEAL)