



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

Regular Meeting

**September 21, 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 Silva led the Pledge of Allegiance.

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and Jordan Simons presented the Pet of the Week.

Mayor Miyagishima and Councillor Archuleta presented certificates to the 2009-2010 Mayor's Top Teens.

Councillor Silva presented a Proclamation to George Mendoza and declared September 21, 2009 as George Mendoza Day.

Councillor Silva presented a Proclamation to Jim Bates, Cindy Pollack and John Moen and declared September 26, 2009 as National Hunting and Fishing Day.

Councillor Silva presented a Proclamation and declared September 28, 2009 as Family Day - A Day to Eat Dinner with Your Children.

Councillor Connor presented a Proclamation to Lori Grumet and declared September 27, 2009 as Play Day.

Mr. Peck gave a presentation on the Recycle Bank.

William F. Fulginiti, Executive Director of NMML gave a presentation on the New Mexico Municipal League updates.

Elliot Eisenberg, National Association of Home Builders gave a presentation on the impact of Home Building in Las Cruces, Costs to Revenue for Local Government and Income, Jobs and Tax Generated.

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?

None given.

III. PUBLIC PARTICIPATION

Russ Warner, Member of the Public asked why in the world would you schedule two long-winded presentations at any one Council meeting? These types of things need to be discussed at a work session not a regular Council meeting. You have these long presentations and then afterward the Mayor said he wants to schedule a work session to discuss it further; you should have done that in the first place.

Mayor Miyagishima said I set the meetings and you are able to watch these meetings at home on TV so if you feel it is lasting too long then you can just change the channel.

Ron Burns, Member of the Public said I am pleased with the traffic cameras, even though I received a \$100 ticket.

Councillor Archuleta spoke about the cost of parks and paying for kids uniforms and stuff like that but I'm not in favor of that at all.

Regarding the water rates, whoever appointed these people to set the water rates, someone is going to have to tighten up their belts because even though my social security check isn't going up, my rates are going up by 39%.

Jorge Garcia, Utilities Director said the utility rates are not going up by 39%; even though the access charge is 39%, we will demonstrate that the numbers are different.

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 we need to hear Item 16 before Item 14 on the agenda.

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

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

V. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

- * (1) Resolution No. 10-085: A Resolution to Support the Creation of a State-Wide Heart Disease and Stroke Prevention Program.
- * (2) Resolution No. 10-086: A Resolution Amending Fire Deputy and Battalion Chief Pay Tables.
- * (3) Resolution No. 10-087: A Resolution Authorizing the City of Las Cruces Police Department in Collaboration With the Doña Ana County Sheriff's Office to Accept 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, and to Adjust the FY 2010 Budget.
- * (4) Resolution No. 10-088: A Resolution Approving Community Housing Development Organization (CHDO) Operating Agreements in Accordance With the 2009 Action

Plan Between the City of Las Cruces, Mesilla Valley Habitat for Humanity, and Tierra Del Sol Housing Corporation.

- * (5) Resolution No. 10-089: A Resolution Approving a Community Development Block Grant (CDBG) Agreement Between the City of Las Cruces and Mesilla Valley Community of Hope as Sponsor for the Owing Entity, Adobe Inc, For Partial Buy-Down of the Mortgage for 1843 and 1845 Sexton Street Using Funding from the CDBG Program.
- * (6) Resolution No. 10-090: A Resolution Accepting Additional One-Time Unobligated Federal Highway Administration (FHWA) Funding for the Las Cruces Metropolitan Planning Organization (LCMPO) and Amending the Adopted FY2010 City Budget For MPO Fund 2090 to Reflect the Actual Budget Amounts for MPO Planning and Safe Routes to School Programs Based on Official Work Authorizations Issued by New Mexico Department of Transportation (NMDOT).
- * (7) Resolution No. 10-091: A Resolution Authorizing the Transit Administrator to Accept an Award of Section 5309 Capital Funds from the Federal Transit Administration in the Amount of \$58,730 Requiring a City Match of \$14,683 for the Purpose of Buying Support Equipment in Fiscal Years 2010 and 2011.
- * (8) Resolution No. 10-092: A Resolution to Approve the Location and Placement of the 6th Bomber Group Memorial Plaque at Veterans Memorial Park.
- * (9) Resolution No. 10-093: A Resolution Approving the Purchase of Property Owned by Patricia Brooks Located at 6140 Jefferson Lane, In the Amount of One Hundred Thousand Dollars (\$100,000.00) as Part of the Jefferson Lane Reconstruction Phase II Project.
- * (10) Resolution No. 09-10-306: A Resolution Awarding an Indefinite Quantity, Indefinite Cost Price Agreement For Visual and X-Ray Inspection of Pipeline Welds for Steel High-Pressure Gas Lines to AMEC Earth and Environmental Inc., of Tempe, AZ, and Integrity Testing & Inspection Inc., of Owensboro, KY, for Five (5) Years Subject to Approved Budget Appropriations and Annual Renewal.
- * (11) Resolution No. 09-10-315: A Resolution Approving an Indefinite Quantity, Indefinite Cost Price Agreement for Road Structures & Improvements to Sandoval Construction, LLC of Las Cruces, NM, for Five (5) Years Subject to Approved Budget Appropriations and Annual Renewal.
- * (12) Resolution No. 09-10-378: A Resolution Approving Extension of Existing Lease Agreement With Daimler Chrysler Services of Milwaukee, Wisconsin for Years Eight and Nine of a Nine-Year Lease for Fire Apparatus With Related Lease Payments Being Authorized Pending Approval of Respective Fiscal Year Budgets.

- *(13) Council Bill No. 10-006; Ordinance No. 2535: An Ordinance Amending Las Cruces Municipal Code, Section 1-11(a)(2), Court Cost - Collection; Purpose, to Increase the Judicial Education Fee From \$2.00 to \$3.00, Pursuant to Amendments Made by the 49th Legislature of the State of New Mexico, 2009, to New Mexico Statutes Annotated, Section 35-14-11, For All Cases Filed on or After July 1, 2009; and, to Amend the Fiscal Year 2009/2010 Budget.

VI. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

- (16) Resolution No. 10-096: A Resolution Approving an Affordable Housing Grant Agreement Between the City of Las Cruces and the Housing Authority of the City of Las Cruces for the Use of State Legislative Funds for Development, Renovation, Rehabilitation and Construction of New Units, Office and a Meeting/Training Room at the Transitional Housing for Homeless Veterans Complex.

Councillor Connor Moved to Adopt Resolution No. 10-096 and Councillor Jones Seconded the motion.

David Dollahon, Neighborhood Services Administrator said we request that this item be tabled until October 19, 2009.

Councillor Connor Moved to Table Resolution No. 10-096 until October 19, 2009 and Councillor Jones Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Table Resolution No. 10-096 and it was Unanimously APPROVED. 7-0

- (14) Resolution No. 10-094: A Resolution to Accept Reallocated Funds from the Department of Finance and Administration in the Amount of \$250,000 to be Used for a Transitional Living Facility for Youth in Las Cruces and Amend the FY 2009-2010 City Budget.

Councillor Archuleta Moved to Adopt Resolution No. 10-094 and Councillor Connor Seconded the motion.

Augie Henry, Acting Grants Administrator gave a presentation and said this is to accept funding that has been re-allocated to us because the department that it originally went to wasn't using the funds. In turn, it was re-allocated to us to be used for the design, construction and equip to furnish the Transitional Living Facility for the Youth. We need Council to accept the funding and then we will execute a contract between us and the State. Once that has been executed then we will have another contract between us and Family Youths Inc. so we can begin to distribute the funding.

Councillor Jones asked do you know where these funds weren't used to acquire water rights usage; was it a local issue?

Augie Henry said I don't know specifically; all of the allocations were State wide.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-094 and it was Unanimously APPROVED. 7-0

- (15) Resolution No. 10-095: A Resolution to Accept American Recovery and Reinvestment Act Funding (ARRA) From the Department of Energy (DOE), Energy Efficiency and Conservation Block Grant Program - Formula Grants in the Amount of \$888,000; to Adjust the FY 2010 Budget; and Ratify the City Manager's Signature to Meet the Agency's Acceptance Deadline.

Councillor Archuleta Moved to Adopt Resolution No. 10-095 and Councillor Thomas Seconded the motion.

Augie Henry, Acting Grants Administrator gave a presentation and said this is to accept the Department of Energy grant. I informed you at the last Council meeting that we only had a certain period of time to spend these funds and it was a very short time to begin the project because of the AARA requirements; but that has now changed. We now have 120 days but we only had 5 days to accept the grant; 50% of the funds must be allocated within the first 18 months and the rest of it by September 2012. We are going to use these funds to replace the roof and HVAC system for the Museum of Nature and Science building.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-095 and it was Unanimously APPROVED. 7-0

- (17) Resolution No. 10-097: A Resolution Approving Two Grants Under the Neighborhood Stabilization Program (NSP), One for Tierra Del Sol and One for La Casa, Inc. The Grants Provide Operating Authority to Each Non-Profit Agency to Become NSP Property Owners, Rehabilitate and Sell the Properties to Eligible Homebuyers or Make Them Available to Eligible Renters.

Councillor Archuleta Moved to Adopt Resolution No. 10-097 and Councillor Thomas Seconded the motion.

David Dollahon, Neighborhood Services Administrator gave a presentation and said we received \$1.5 million from the State of New Mexico under the Housing and Economic Recovery Act of 2008. We have identified an initial five properties for purchase and we are working to identify more properties for acquisition. Tierra Del Sol will rehabilitate homes and sell them to individuals on a lease to own basis for the first two years to make sure they are ready to be homeowners and La Casa will have units available to be used as transitional housing.

Councillor Silva said I understood that half of these funds were to go for commercial space.

David Dollahon said no, it was not intended for commercial buildings. It is for foreclosed or vacant homes. We can use it for commercial but we haven't found any properties that we could use.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-097 and it was Unanimously APPROVED. 7-0

- (18) Resolution No. 10-098: A Resolution Authorizing the Transit Administrator to Accept an Award of Section 5307 Formula Funds from the Federal Transit Administration in the Amount of \$1,291,703 Requiring a City Match of \$1,291,703 for the Purpose of Routine Transit Operating Support in Fiscal Year 2010 and Adjust the Budget Accordingly.

Councillor Jones Moved to Adopt Resolution No. 10-098 and Councillor Silva Seconded the motion.

Mike Bartholomew, Transit Administrator gave a presentation and said this is to accept a routine operating grant that we get through Section 5307. This year, we are using the entire amount for our operating expenses. In June, Council approved for us to apply for these funds and this is to get approval to accept these funds. This amount was estimated in our budget but we are asking for a minor budget adjust because we estimated about \$1.3 million in federal funds and it was only \$1.291 million.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-098 and it was Unanimously APPROVED. 7-0

(19) **Resolution No. 10-099:** A Resolution Declaring Rocket Racing, Inc., DBA Rocket Racing League, to be Out of Compliance With the Terms of Their Land Lease at the Las Cruces International Airport and Authorizing Staff to Amend Said Land Lease to Remove Parcels 41, 42, 43, and 44 and Make These Parcels Available to Other Potential Tenants.

Councillor Archuleta Moved to Adopt Resolution No. 10-099 and Councillor Jones Seconded the motion.

Lisa Murphy, Airport Manager gave a presentation and said this is regarding the Rocket Racing League's airport parcel lease. We originally had a lease with them for six parcels but they didn't begin construction on the parcels as they had planned. The City did grant them an extension on the time to do construction on the parcels and the City also installed water and gas to these parcels. The League did start hangers on parcels 36 and 37 so in January, the Council gave another extension to complete construction by September 30th but about six weeks after that, the League sold one of the hangers which was on parcel 37. They are currently advertising the sell of their other hanger which is on parcel 36. There has been no construction activity on any of the other parcels. The Airport Advisory Board did consider this issue at their September 10th meeting and they recommended that the League's lease be amended to exclude parcels 41, 42, 43 and 44 but they can keep parcel 36 until it is sold or until the lease is up.

Councillor Jones said I am on the advisory board and we think that the goals set by the Rocket Racing League were monumental and aren't going to be able to be achieved so the board is supportive of this resolution.

Councillor Archuleta asked are there other individuals that are interested in these parcels?

Lisa Murphy said yes, we do have pending applications for these parcels.

Councillor Connor said I don't think this resolution excludes parcel 36 which is the one that has the partially completed hanger on it.

Lisa Murphy said this resolution doesn't mention parcel 36 as being one of the parcels that is being terminated; therefore, by not mentioning that parcel it allows it to remain.

Councillor Connor said I think it should be mentioned in the resolution.

Councillor Connor Moved to Amend Resolution No. 10-099 to add on page 498 that parcel 36 remains on the lease until the lease expiration date and Councillor Jones Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 10-099 and it was Unanimously APPROVED. 7-0

Councillor Jones said this is until the lease expires but it doesn't protect them if they default on it.

Lisa Murphy said they will retain it until the end of their lease; not until their rent runs out.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-099 as Amended and it was Unanimously APPROVED. 7-0

(20) Resolution No. 10-100: A Resolution to Establish Pricing Guidelines for the Las Cruces Convention Center and Sole Authorization to the Management Company, Global Spectrum and the Las Cruces Convention & Visitors Bureau to Implement Said Guidelines When Booking Business to the Facility.

Councillor Archuleta Moved to Adopt Resolution No. 10-100 and Councillor Jones Seconded the motion.

Brett Mitchell, Global Spectrum gave a presentation and said the benefits of our pricing model to Las Cruces is that it would book more business, stimulate economic impact, maximize profit ability, and increases the use of the facility.

Councillor Silva asked how will the venues compare to our hotels?

Brett Mitchell said we don't look to compete with local venues; we look at our regional competition.

Councillor Connor asked would you say that these are preliminary rates and they may be adjusted or does this mean that you can't go out of these guidelines?

Fermin Rubio, City Attorney said I'm not sure but I think if you have guidelines then it would be hard to deviate from them.

Brett Mitchell said we did add the wording "subject to change" in the resolution which gives us the flexibility to change it.

Maria Reyes, Ramada Palms asked will there be guidelines in place to enable us to be competitive so that we aren't losing business and losing jobs in our smaller hotels?

Ken Mompellier, CVB Director said we not trying to compete with the hotels; we are going to be interested in the bigger events and there will always be people who would rather stay in a hotel. This will increase the business for everyone and everyone will benefit from it.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-100 and it was Unanimously APPROVED. 7-0

VII. BOARD APPOINTMENTS

Mayor Miyagishima appointed Ernest Day Apodaca, Councillor Archuleta, Joel Courtney, Zack Edwards, Madeline Gillett, Luciana Nino, Vincente Romero Jr., Dean Shamerbock, Ronny Cisneros, Councillor Small, Herb Torres, Charm Ulrich and Maggie Zubia Pandia to the 2010 Census Complete Count Committee

Councillor Archuleta Moved to Approve the Board Appointments and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Board Appointments and it was Unanimously APPROVED. 7-0

VIII. REVIEW OF PROPOSED ORDINANCE(S)

- (21) Council Bill No. 10-008; Ordinance No. 2537: An Ordinance Repealing Las Cruces Municipal Code, Sections 2-426, 2-427 and 2-428 Cable TV Compliance Commission In Its Entirety.

Mayor Miyagishima and Council agreed to bring this item back.

- (22) Council Bill No. 10-009; Ordinance No. 2538: An Ordinance Authorizing a Lease Agreement Between the City of Las Cruces and Enxco Development Corporation, for the Thirty Year Lease of Approximately 86 Acres of Municipally Owned Land in the West Mesa Industrial Park for the Purpose of Developing a Solar Energy Project.

Mayor Miyagishima and Council agreed to bring this item back.

IX. STATUS/UPDATES ON CURRENT PROJECT LIST

1. **Strategic Plan** - *(Implementation documents being prepared, finalizing plan for council review and consideration.)*
2. **Las Cruces Convention Center** - *(Status report provided monthly on second, Regular City Council Meeting)*
3. **Downtown** - *(The project design is ongoing with Bohann-Huston, Inc. The city has completed the final details for the proposed cul de sac on Lucero Ave. Bohann-Huston is scheduled to submit a 95% complete plan set for the final review on September 25, 2009. The anticipated completion of the design for the north end portion is October 30, 2009.)*
4. **Impact Fees** – *(The project is on-going. Staff has been working with the Consultant on incorporating information to address the comments provided by the City Council during the Work Sessions held in March, April, and May of this year. Staff is currently reviewing the latest draft of the information. It is anticipated that a final draft will be available in the next few weeks.)*
5. **Aquatics Center** - *(Status report provided monthly on first, Regular City Council Meeting)*
6. **Vision 2040** - *(The consultants have completed preliminary drafts of the Regional Vision, and CLC and DAC Comprehensive Plans, and all documents have been reviewed by staff. The consultant is making revisions based on staff comments.*

When revisions to all three documents are complete, the preliminary drafts will be released for public comment, and public input meetings will follow.)

7. **Grants/ARRA Status** - (Matrix.)

Councillor Silva said I would like to discuss the Downtown project. I would like to know exactly where we stand on that project regarding Lucero Street.

Mike Johnson, Public Works Director said we met with the residents and business owners of Lucero Street and there was a consensus from the residents that they would like to have Lucero Street closed so it wouldn't enter Main Street. The design we are working on now accomplishes that and the design is acceptable to both the residents and the business owners.

Councillor Silva said I spoke with Mr. Rawson who owns the north property and his main concern is with the parking, drainage and potential zoning change in the future so we need to work with him before there is a final stamp on it.

Mike Johnson said ok.

Councillor Thomas said it is my understanding that the Vision 2040 documents are now available.

David Weir, Community Development Director said they are available online on the Vision 2040 website.

X. GENERAL DISCUSSION

1. Mayor

Mayor Miyagishima said we are going to be having our District meetings again; District 2 will be at 5:30 at Club Fusion, District 1 will be tomorrow at 7:30. I want to discuss the cell phone ban, water rates, the Serve Las Cruces initiative and the opportunity to meet the police officers from all the different districts.

Councillor Thomas said we also need to ask for people's input regarding our website.

Don Bustamante, IT Director said our website currently has a community survey regarding our website on it that people can take.

2. City Council

Councillor Archuleta said I want to thank Mike Johnson and Klaus Kemmer for taking care of the

dumpster at La Casa that was full of rain water.

Councillor Thomas said I sent an email out to Council to inform them that the City of Las Cruces was chosen for an EPA Technical Assistance Program.

Councillor Jones said at some point, we need a model to assist us in the evaluation of things like annexations.

David Weir said we have put out a bid for request of qualifications for firms that do fiscal impact analysis and we received ten applicants which we are currently working with on contracts on a case by case basis.

Councillor Small said on September 30th there is going to be a commuter rail workshop here in Chambers at 9:00 a.m.

Councillor Connor said there are a couple of french drains that need attention on Apollo.

I was appointed to the New Mexico 1st Board in June and I attended my first meeting at which I was asked how we could bring one of their Town Hall meetings to Las Cruces so I will be discussing that with Mr. Moore.

Councillor Silva said regarding the Farmers Market, we still need to consider how to address the shade issue on the north end.

The Sante Fe Sustainability Plan has four groups of people that put together a community report that addressed several issues and I would like for us to have a community plan as well.

Terrence Moore said we have a 120-day plan in which we will be having a work session for Council to offer direction in that effect.

I continue to get request for us to go back to the old way of doing our meeting agendas.

Terrence Moore said we will have to ascertain that from our technological stand point.

Councillor Silva said there was an editorial comment in the Sun News regarding the review process of police complaints like officers violating the use of force policy and the real issue to keep in mind is what kind of mechanism are we going to put in place to allow residents to review complaints.

Regarding the Film office; there is a guy named Guillermo Arriaga who is a screen writer and director and he just released the Burning Flame. It has been shown throughout Europe and they film screened it in Mesilla last weekend. He wants to film more in Las Cruces and I would suggest that the City Manager or Mayor write him a letter to welcome him back to Las Cruces.

3. City Manager
A. Update Regarding Development and Construction of New City Hall.

Brian Denmark, Facilities Director gave a presentation and said we are still on course and are anticipating the moving in process after the holidays.

- B. Update Regarding Development and Construction of New Las Cruces Center.

Brian Denmark, Facilities Director gave a presentation and said this project is moving on schedule and it is still projected to be open by next October.

- C. Impact of Home Building in Las Cruces: Costs to Revenue for Local Government and Income, Jobs and Tax Generated by Elliot Eisenberg, PhD, National Association of Home Builders.

Done previously in this meeting.

- D. Other Items - Information Only

None given.

Meeting Adjourned at 5:35 p.m.



Mayor

ATTEST:



City Clerk

(SEAL)