



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

Regular Meeting

September 28, 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.

Frank Guzman, NMDOT presented a check to Mayor Miyagishima for the rehabilitation of Amador Avenue from Archuleta Street.

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 Jones said regarding Item 7; this is a property on Missouri and Solano and the real estate company that I have my license with manages that company but they are not my clients. I believe there is an agent in our office that is handing it but I don't see any reason why this would influence my vote.

III. PUBLIC PARTICIPATION

Ben Widner, Member of the Public said there was another bicycle and motor vehicle collision which highlights the need for bicycle lanes and public education. There are several issues that we are facing in District 6; there have been 3 deaths in the past 3 years on Roadrunner Parkway. In each one of these accidents, excessive speed was a factor. The posted speed limit for that area is 35 mph and I have observed the Roadrunner Transit, City Police, garbage trucks and several others go above this speed limit. One way to correct this is to narrow the lanes and add bicycle lanes on the side of the street. There is a temporary stop light on Golf Club Road; how long is it going to be temporary before it becomes permanent? Mayor Miyagishima, in your final debate with Mayor Mattiace, you brought up the dangers on Roadrunner and you stated it was unsafe to ride a bicycle on Roadrunner; its been two years later and I would like to ask the question, has anything changed to make you feel safe to ride on Roadrunner?

Mayor Miyagishima said to answer your question, no. I am going to speak with Councillor Thomas and Mike Johnson to discuss your suggestions.

Terrence Moore said I would also like to ask Mike about the red light on Golf Course Road.

Mike Johnson, Public Works Director said we have been working very closely with Andy Hume from the MPO on potential new bicycle routes throughout the City. Roadrunner Parkway is on his list for the consideration of a possible bicycle lane but I don't believe we were going to narrow the lanes. The red light on Golf Course Road wasn't installed because of any accidents, this temporary light is the minimal installation to meet the needs of that intersection but in the next few months, we are planning to evaluate that intersection to see if it still needs that signal and if it does then it will probably be our recommendation to come to Council for approval of funding for a permanent signal.

Joe Fuller, Member of the Public said yesterday, I umpired two baseball games at Apodaca Park and the grass was extremely long and the in-field was extremely hard. The City charges us a maintenance fee and the maintenance wasn't done.

Mayor Miyagishima asked Terrence, can we refund the maintenance fee in this case?

Terrence Moore said I will make arrangements with Mark Johnston to take care of it.

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 3 needs to be removed from the consent agenda for discussion.

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

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

V. CITY COUNCIL MINUTES

*(1) Regular Meeting of August 17, 2009

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

*(2) Resolution No. 10-101: A Resolution Designating Polling Places and Election Officials for the Regular Municipal Election to be Held in the City of Las Cruces, New Mexico, on Tuesday, November 3, 2009.

*(3) Resolution No. 10-102: A Resolution Approving a Waiver Request for No Road Improvement to 2300 ± Linear Feet Along Tucson Avenue. The Subject Property is Located at 1690 Tucson Avenue. Submitted by Southwest Engineering for Linda Ann Garza. (S-09-032W).

Councillor Jones Moved to Adopt Resolution No. 10-102 and Councillor Archuleta Seconded the motion.

Cheryl Rodriguez, Development Services Administrator gave a presentation and said this is a waiver request for road improvements; the applicant is proposing to re-plat the lot to create two single family residential lots. Tucson Avenue recently became a major local roadway by the DRC for a proposed development that is going to take place in that area. In March, the Planning and Zoning granted them a zone change to allow 2 residential plots and part of that subdivision process comes compliance with the City's subdivision code and design standards. Tucson Avenue is currently an un-improved roadway and the City's design standards are very specific on road improvement requirements. It is the responsibility of the subdivider to construct a minor local roadway from the subdivision boundary to the nearest paved public roadway. In chapter 37 of subdivision code, it states that a waiver can be granted if a substantial hardship exists for the subject property.

Mayor Miyagishima said the only reason this is before us is that fact that the roadway isn't paved, correct?

Cheryl Rodriguez said because it is un-improved, that is what is triggering the need for road improvements. The Development Review Committee recently classified Tucson Avenue as a major local and subsequently, if there was already pavement existing then staff would evaluate it at that time. The applicant wouldn't be required to have road improvements extended out to Del Rey Blvd.

Mr. Pompeo, Applicant's Engineer gave a presentation and said the City's design standards require a 37 foot wide roadway cross section with curbs and gutters along with sidewalks and street lighting. These improvements would be required from Del Rey Blvd. to the eastern side of the property which would be a distance of approximately 2,310 feet and would cost about \$515,000. Drainage improvements to Tucson Avenue to protect the southern edge of the roadway are estimated at \$125,000 and it is our position that \$640,000 worth of roadway improvements to be burdened on one property owner in order to create one additional lot is excessive and furthermore, the City's design standards, as currently written, does not contain a provision for individual lot owners in this type of situation, to only build their fare share. This application is for family members that wish to reside next to each other.

Councillor Silva asked what is the estimated cost to pave Tucson from the two principal arterials?

Cheryl Rodriguez said I don't have that information available but I would guess that it would be about \$1 million.

Councillor Connor said if they do all the improvements then as people come into that area and start developing it, they wouldn't be reimbursing them for the cost of the street improvements, correct?

Cheryl Rodriguez said that is correct.

Councillor Connor asked if they just built on that property and didn't subdivide it; we wouldn't be here today, correct?

Cheryl Rodriguez said that is correct.

Councillor Connor said I have a problem with having them pave from their property all the way to Del Rey when it's not their frontage. The other property owners in that area wouldn't be responsible to pay for any of the improvements.

Councillor Jones asked each one of those boxes on Del Rey represent a parcel for a home, correct?

Cheryl Rodriguez said that is correct.

Councillor Jones said it wouldn't make any sense to have them just paved the approximately 300 feet in front of their property and leave the rest as a dirt road. If we make them paved all the way to Del Rey then there will be a bunch of people capitalizing at his expense and he would only have a minimal benefit. I don't think it is fair to burden this property owner with the entire roadway.

Councillor Thomas asked how do the impact fees play out?

Mike Johnson, Public Works Director said it would probably play out the same way. The impact fees are only addressed for collector streets or arterials streets.

Councillor Thomas said I agree that it isn't fair to make one property owner pay for it but it will need to be done. This is the second time this type of situation has come before us and we need to look into finding a solution for it.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-102 and it was Unanimously APPROVED. 7-0

VII. BOARD APPOINTMENTS

None given.

REVIEW OF PROPOSED ORDINANCE(S)

- (4) **Council Bill No. 10-012; Ordinance No. 2541:** An Ordinance to Amend the City of Las Cruces Municipal Code, Chapter 36 - Sign Code. The Amendment Includes (1) the Addition of Regulations for On-Premise and Off-Premise Electronic Variable Message Displays; (2) the Addition of Regulations for the PUD and R-4 Zoning District; (3) Incorporates New

Definitions; (4) the Addition of Regulations for Neighborhood Signs; (5) Clarifies the Enforcement Authority for the Removal of Illegal Signs; and (6) Changes the Maximum Allowed Height for Freestanding Signs in Both the C-3 and M-3 Zoning District. Submitted by the City of Las Cruces (SICA-09-01).

Mayor Miyagishima and Council agreed NOT to bring this back

- (5) Council Bill No. 10-013; Ordinance No. 2542: An Ordinance Approving a Zone Change Request to Various Zoning Districts for 54.53 ± Acres Within the Sonoma Ranch North Master Planned Area. The Subject Properties are Generally Located South of U.S. Highway 70 North, and South of Northrise Drive, and East and West of Sonoma Ranch Boulevard. Submitted by Gunaji-Klement & Associates for Sonoma Ranch North LLC. (Z2785)

Mayor Miyagishima and Council agreed to bring this back.

- (6) Council Bill No. 10-014; Ordinance No. 2543: An Ordinance Approving a Request for Multiple Zone Changes for Approximately 13.59 ± Acres Within the Sonoma Ranch East II Master-Planned Area. The Subject Area is Generally Located East of Sonoma Ranch Boulevard and West of the Future Extension of Mesa Grande Drive. Submitted by Gunaji-Klement & Associates for Sonoma Ranch Subdivision LTD. Co. (Z2792).

Mayor Miyagishima and Council agreed to bring this back.

- (7) Council Bill No. 10-015; Ordinance No. 2544: An Ordinance Approving a Zone Change From C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for 4.31 ± Acres Located at 1400 East Missouri Avenue. The Zone Change Will Bring the Property Into Zoning Compliance, Based on the Overall Size of the Property Exceeding the One Acre Maximum Lot Size for Properties Within the C-2 (Commercial Medium Intensity) Zoning District. Submitted by City and Regional Land Use Consultants for Gadco of El Paso, LLC (Z2793).

Mayor Miyagishima and Council agreed to bring this back.

- (8) Council Bill No. 10-016; Ordinance No. 2545: An Ordinance Approving a Zone Change Request for 7.126 ± Acres of Property Located West of Stern Drive and South of Ringneck Drive. The Zone Change Request is From M-T (Industrial Light) to R-1AC (Single-Family Medium Density-Conditional) for 5.451 ± Acres, From O-2C (Office, Professional-Limited Retail Service-Conditional) to R-1A (Single-Family Medium Density) for 1.107 ± Acres, and From M-T (Industrial Light) to R-1A (Single-Family Medium Density) for 0.568 ± Acres. The Purpose of the Zone Change Request is to Facilitate Development of a Private School and Expansion of a Single-Family Residential Subdivision. The Subject Property is Located Within the Heather Hills Master Planned Area. Submitted by Scanlon White, Inc. For DTG Development Company, LLC (Z2794).

Mayor Miyagishima and Council agreed to bring this back.

- (9) Council Bill No. 10-017; Ordinance No. 2546: An Ordinance Approving a Zone Change From R-3 (Multi-Dwelling Medium Density) to O-1 (Office, Neighborhood-Limited Retail Service) & R-3 (Multi-Dwelling Medium Density) For 0.31 +/- Acres Located at 428 W. Griggs Avenue. The Zone Change Will Bring the Property into Compliance With the 2001 Zoning Code, as Amended. Submitted by Kathryn Bonansinga, Property Owner (Z2797).

Mayor Miyagishima and Council agreed to bring this 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 Bohannon-Huston, Inc. The city has completed the final details for the proposed cul de sac on Lucero Ave. Bohannon-Huston is scheduled to submit a 95% complete plan set for the final review on September 25, 2009 for the northern end of the project. There is a Public Input meeting for the northern portion of the project scheduled for Tuesday, October 6, 2009 at 6:00 pm in City Council Chambers. 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** - *(Staff has received the latest drafts from the consultant and is reviewing them. Public review of the draft documents began on Monday, September 21st. The current drafts are posted on the Vision 2040 website and will also be available on CD and in print upon request. A week of public input meetings is scheduled for the week of October 19th. The consultant will also lead discussions with joint meetings of the City Council and County Commission as well as the region's Planning Commissions. The meeting schedule will also be posted on the website.)*
7. **Grants/ARRA Status** - *(Matrix.)*

X. GENERAL DISCUSSION

1. Mayor

Mayor Miyagishima said tomorrow at 5:30 p.m. is our District 4 meeting at the Munson Center which will be followed by the District 5 meeting at 7:30 p.m. at Sunrise; Wednesday will be the District 3 meeting at 5:30 p.m. at Conlee and District 6 is at Good Sam's at 7:30 p.m.

Terrence Moore said just as a reminder; there is a special work session tomorrow regarding the Broadband Committee and the City Preparedness Plan.

2. City Council

Councillor Archuleta said I received a couple of complaints from some of my constituents in District 3 regarding the Enchilada Fiesta but I have already addressed them and sent them to staff.

We are taking 90 Veterans on a chartered flight to Washington for the memorial in Washington and Councillor Connor and her father will be joining me on this flight.

Councillor Thomas said I just want to mention that the District 6 meeting is on Wednesday at 6:30 p.m. at University Terrace Good Samaritan Village in the Social Center.

Councillor Jones asked can we get an update on the lawsuit against Philip Philippou?

Robert Garza, Assistant City Manager said as of last Friday afternoon, we signed our final settlement agreement with Mr. Philippou's organization.

Councillor Jones said as a result of this, we will be able to move forward with flood control improvements to the Dos Suenos area?

Robert Garza said Dos Suenos was one of the eight subdivisions included in this settlement. Now that the settlement is in place, we are guaranteed that we as a City will receive from Mr. Philippou's organization, a sufficient value to offset all cost associated with making these improvements. We have assurances that we will get paid over time for all the improvements that are needed.

Councillor Jones asked how are we going to prevent some of these issues in the future?

Robert Garza said the biggest thing we were able to do is implement a policy called the Substantial Completion Policy. This policy states that the developer must build subdivisions and all their components until each element of that subdivision can perform their intended function. That means if it is a road then it needs to be paved; lights have to be illuminated; water lines have to flow water

etc. Every component has to function before we will allow the development to convey lots and file their final plat. We would be dealing with the owner of the property which is the developer until it is ready to go rather than allowing residents to be exposed to incomplete neighborhoods. This is currently a City Manager's policy and the next step is to refine it and then bring it back to Council as an ordinance.

Councillor Jones said the County has followed us and passed an ordinance of their own.

Robert Garza said that is correct.

Councillor Small said there are some issues with weeds on Stewart Lane.

I am excited about our District meeting at 5:30 at the Munson Center.

On Wednesday we are going to have the Railroad Administration and a number of folks from around the State talking about the commuter rail between Las Cruces and El Paso. I want to thank Mr. Bustamante for being able to streaming this event live on the internet for people who aren't able to attend it.

Councillor Connor said we had our District meeting and Dr. Garcia showed up to give us some brief information regarding changes to the water and waste water. There was a suggestion that we have a place on our website that would allow you to calculate your current usage and show you what your new bill will look like with these changes.

Don Bustamante, IT Director said I am working with Dr. Garcia on that issue.

Councillor Connor said at Gomez Park, between the two culverts, the drainage that was put in isn't working and I have had more complaints on the ponding issues. We need to look into another solution for this area.

Stull Park needs to be added to our list because they still have the old fashion A frame swings and they need to be replaced.

The Whole Enchilada Fiesta was well attended and the entertainment was great. I noticed that the statue of the Chief at Apodaca Park is in bad shape and needs to be cleaned up and maintained.

Terrence Moore said we will work on that issue.

Councillor Connor said I did notice that the new bathrooms at Apodaca are now open.

Councillor Silva said there was a lady that traveled all the way from New Jersey to attend the Whole Enchilada Fiesta and she is going to do a whole lesson plan on Roberto's making of enchiladas.

I want to thank everyone that attended our District meeting and it was a great idea to have the Police Officers from this area present to meet all the residents.

3. City Manager
 - A. Other Items - Information Only

Terrence Moore said I would like to thank the President of the Whole Enchilada and his board for all the work that went into this event.

The new City of Las Cruces license plates are now available.

Mayor Miyagishima said I wanted to suggest that either October 31st or November 7th be the date for the Cookout with the Police Officers.

Mayor Miyagishima and Council agreed to have the Cookout on November 7th at Apodaca Park.

Meeting Adjourned at 2:45 p.m.



Mayor

ATTEST:



City Clerk

(SEAL)