

5
City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 1 Ordinance/Resolution# 11-186 Council District: N/A

For Meeting of March 7, 2011
 (Adoption Date)

A RESOLUTION RE-ESTABLISHING AN AD HOC BOARD TO BE KNOWN AS THE RATEPAYER ADVISORY COMMITTEE.

PURPOSE(S) OF ACTION: To re-establish an Ad Hoc Board to be known as the Ratepayer Advisory Committee.

Drafter and Staff Contact: Marcia B. Driggers		Department: Legal		Phone: (575) 541-2128	
Department	Signature	Phone	Department	Signature	Phone
Department Director			Budget		541-2107
Other			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: The City Council previously established an Ad Hoc Board known as the Ratepayer Advisory Committee ("RAC") in Resolution No. 09-170 on January 20, 2009. That resolution provided that the RAC would be an automatic intervenor on behalf of City residential and small commercial utility customers in the 2009/2010 Board of Commissioners for the City of Las Cruces Utilities ("Utilities Board") rate hearings, and that the RAC would terminate upon completion of those rate hearings.

When Resolution No. 09-170 was approved by the Council, the Utilities Department intended to file rate cases for all four (4) of the City Utilities at the same time; however, Utilities Department staff thereafter decided not to file rate cases in 2009 for the natural gas utility because of the potential effect on gas rates with the pending reorganization of Rio Grande Natural Gas Association, and for the solid waste utility because of the potential effect on solid waste rates with the pending implementation of curbside recycling. Rio Grande Natural Gas Association has been reorganized as approved in City Council Resolution No. 11-009 and a curbside recycling surcharge has been implemented as recommended in City Council Resolution No. 11-078 and therefore, Utilities Department staff will proceed with filing natural gas and solid waste rate cases before the Utilities Board in 2011.

As provided in Resolution No. 09-170, the RAC ceased to exist as an Ad Hoc City board when the water and waste water rate hearings were completed in 2010 when the rates were approved in Utilities Board Resolution Nos. 10-11-005 and 10-11-006 and implemented for bills issued on or after October 1, 2010 for water and waste water utility

(Continue on additional sheets as required)

services provided in September and October 2010. The Utilities Department needs to have the RAC re-established with expanded duties and, with the advice and consent of the Council, to have the original RAC members who seek reappointment to be reappointed and to have any vacancies on the RAC filled.

The Utilities Department should provide technical and financial assistance to the re-established RAC as reasonably requested to enable the RAC to hire an attorney and one or more consultants for revenue requirements, cost of service and rate design analysis for the upcoming natural gas and solid waste rate cases. Consultants to be selected by the RAC and to be hired by the City on behalf of the RAC will be exempt from the City's procurement process under LCMC 1997, § 24-4(10) because the consultants will be deemed to be experts hired for litigation purposes.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A" to the Resolution.

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input type="checkbox"/>	See fund summary below
	No	<input checked="" type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the (# and Fund Name) Fund.
Does this action create any revenue?	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: (Fund #) in the amount of \$ _____ for FY _____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE:

To be budgeted in the proposed FY12 utilities budget.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will re-establish the RAC.
2. Vote "No"; this will not re-establish the RAC.
3. Vote to "Amend"; this could address Council concerns.
4. Vote to "Table"; this could postpone training for new RAC members.

REFERENCE INFORMATION

The resolution listed below is only for reference and is not included as attachments or exhibits.

1. Resolution No. 09-170.

(Continue on additional sheets as required)

RESOLUTION NO. 11-186**A RESOLUTION RE-ESTABLISHING AN AD HOC BOARD TO BE KNOWN AS THE RATEPAYER ADVISORY COMMITTEE.**

The City Council is informed that:

WHEREAS, the City Council previously established an Ad Hoc Board known as the Ratepayer Advisory Committee ("RAC") in Resolution No. 09-170 on January 20, 2009; and

WHEREAS, that resolution provided that the RAC would be an automatic intervenor on behalf of City residential and small commercial utility customers in the 2009/2010 Board of Commissioners for the City of Las Cruces Utilities ("Utilities Board") rate hearings, and that the RAC would terminate upon completion of those rate hearings; and

WHEREAS, when Resolution No. 09-170 was approved by the Council, the Utilities Department intended to file rate cases for all four (4) of the City Utilities at the same time; however, Utilities Department staff thereafter decided not to file rate cases in 2009 for the natural gas utility because of the potential effect on gas rates with the pending reorganization of Rio Grande Natural Gas Association, and for the solid waste utility because of the potential effect on solid waste rates with the pending implementation of curbside recycling; and

WHEREAS, Rio Grande Natural Gas Association has been reorganized as approved in City Council Resolution No. 11-009 and a curbside recycling surcharge has been implemented as recommended in City Council Resolution No. 11-078 and therefore, Utilities Department staff will proceed with filing natural gas and solid waste rate cases before the Utilities Board in 2011; and

WHEREAS, as provided in Resolution No. 09-170, the RAC ceased to exist as an Ad Hoc City board when the water and waste water rate hearings were completed in 2010 when the rates were approved in Utilities Board Resolution Nos. 10-11-005 and 10-11-006 and implemented for bills issued on or after October 1, 2010 for water and waste water utility services provided in September and October 2010; and

WHEREAS, the Utilities Department needs to have the RAC re-established with expanded duties and, with the advice and consent of the Council, to have the original RAC members who seek reappointment to be reappointed and to have any vacancies on the RAC filled; and

WHEREAS, the Utilities Department should provide technical and financial assistance to the re-established RAC as reasonably requested to enable the RAC to hire an attorney and one or more consultants for revenue requirements, cost of service and rate design analysis for the upcoming natural gas and solid waste rate cases; and

WHEREAS, consultants to be selected by the RAC and to be hired by the City on behalf of the RAC will be exempt from the City's procurement process under LCMC 1997, § 24-4(10) because the consultants will be deemed to be experts hired for litigation purposes.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT a Ratepayer Advisory Committee is hereby re-established as an Ad Hoc City board in compliance with LCMC 1997, § 2-1071 of the City's Board Ordinance, and will terminate upon completion of the duties set forth in Exhibit "A" attached hereto upon

notification of completion of those duties by the City's Utilities Director to the City Clerk, who monitors the term limits of City boards.

(II)

THAT the RAC will consist of seven (7) members to be appointed by the Mayor with the advice and consent of the City Council with its duties and membership requirements set forth in Exhibit "A". The Mayor with the advice and consent of the City Council will reappoint members of the original RAC who desire to be reappointed, and will appoint new members to fill any vacancies.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the hereinabove.

DONE AND APPROVED on this 7th day of March, 2011.

APPROVED:

(SEAL)

Mayor

ATTEST:

City Clerk

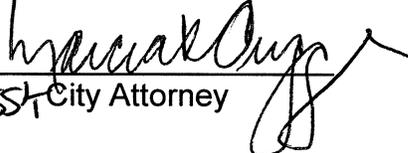
Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

APPROVED AS TO FORM:



ASST City Attorney

RATEPAYER ADVISORY COMMITTEE**I. AD HOC BOARD.**

The Ratepayer Advisory Committee ("RAC") was re-established as an ad hoc City board on March 7, 2011 in City Council Resolution No. 11-____ in compliance with Las Cruces Municipal Code, Section 2-1071.

II. DUTIES.

A. The RAC will function as a ratepayer advisory board in utility rate cases before the Board of Commissioners for the City of Las Cruces Utilities ("Utilities Board") on behalf of the City's residential and small commercial customer rate classes.

B. The RAC will be entitled to file testimony and evidence at the rate hearings on behalf of City residential and small commercial customer ratepayers, and will represent their interests in the Utilities Board rate cases filed in 2010.

C. Press releases, utility billing inserts, letters to the editor/guest editorials, and similar materials concerning rate cases pending before the Utilities Board will be approved by the RAC prior to release or publication. Press releases approved by the RAC will be submitted to and issued by the City's Public Information Office following standard procedures. Utility billing inserts approved by the RAC will be submitted to the Executive Administrative Assistant for the Utilities Department and may be reformatted for consistency. The printing cost for billing inserts will be paid for by the Utilities Department.

D. The RAC will retain limited authority as provided in the Order Approving Stipulation and Adopting New Rates for Water Utility Service, paragraph 15 on pages 8-9 and paragraph C on page 10, which Order was approved in Utilities Board Resolution No. 10-11-005 concerning the creation of a revenue neutral multi-tiered volumetric rate structure of three tiers or higher for residential water customers.

E. Upon completion of the rate cases, the RAC will provide recommendations to the Utilities Department and Utilities Board concerning the rate-making process and procedures.

F. The RAC will terminate upon completion of the duties set forth above upon notification by the Utilities Director to the City Clerk.

EXHIBIT A

III. MEMBERSHIP.

A. There will be seven (7) members who will be appointed by the Mayor with the advice and consent of the City Council. The Mayor with the advice and consent of the City Council will reappoint members of the original RAC who desire to be reappointed, and will appoint new members to fill any vacancies.

B. Member Eligibility. To be eligible for appointment to the RAC, an appointee must be a registered voter and a customer of one or more of the Las Cruces Utilities for at least one (1) year prior to appointment; not hold any elected or appointed public office or be a City employee; and not be a contractor or consultant or have a contractual relationship with the City for the benefit of the Las Cruces Utilities.

C. Member Qualifications. To be qualified for appointment, appointees shall have significant technical expertise in one or more of the following fields: banking/finance; business; economics; engineering; utility rate management; or other skills or experience that may be of value to the rate making process. To the extent possible, the Mayor shall appoint members with diverse expertise.

D. Member Training. Members will complete training provided by economic professors with New Mexico State University comparable to the training provided to the Utilities Board. That training will be open to the public and will include an overview of utility cost of service analysis, the rate making process, revenue requirements, basic rate design, tariff issues, rate filing requirements, process for intervention, and procedures for appeals.