

Special Meeting
June 1, 2011



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

Item 2

Special Meeting

June 1, 2011

10:00 A.M.

Council Chambers, City Hall

MEMBERS PRESENT:

STAFF:

Mayor Ken Miyagishima

Robert Garza, City Manager

Councillor Miguel Silva, District 1

Harry (Pete) Connelly, City Attorney

Councillor Dolores Connor, District 2

Esther Martinez, City Clerk

Councillor Olga Pedroza, District 3 **Absent**

Councillor Nathan Small, District 4

Councillor Gill Sorg, District 5

Councillor Sharon Thomas, District 6

DRAFT

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

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.*

None given.

II. RESOLUTION FOR DISCUSSION

(1) Resolution No. 11-227: A Resolution Accepting the United States Environmental Protection Agency's Modified Administrative Order for Remedial Action Regarding the Griggs and Walnut Ground Water Plume Superfund Site and Directing Staff to Take All Action Required to Perform the Work Set Forth in the Statement of Work Attached Thereto.

1 Councillor Small Moved to Adopt Resolution No. 11-227 and Councillor Connor Seconded the
2 motion.

3

4

5

6 Jorge Garcia, Utilities Director gave a verbal presentation and said we were directed to continue with
7 the operation and maintenance of this project until we reached the \$7 million loan amount. We never
8 challenged the idea that we were going to clear up the ground water but we did disagree with some
9 elements of the order; specifically, going into the operation and maintenance knowing that there were
10 other potentially responsible parties, namely the State and National Guards. We negotiated with EPA
11 officials and staff for a modified order which this order today supercedes the February 14th order.
12 This order is only for the construction of the system and not for the operation and maintenance and
13 it doesn't require us to fully spend that loan amount. We will continue to work with the EPA because
14 an order doesn't limit our liability. This resolution accepts the order and we will need a small
15 amendment so we can have consistency with the language.

16

17 Marcy Driggers, Senior Assistant City Attorney said the County is bringing forward an identical
18 resolution to our resolution for this item so we need to amend this resolution to change the word
19 "approval" in the 8th Whereas clause to "acceptance" and to change the word "approves" in the first
20 Therefore clause to "accepts".

21

22

23

24 Councillor Thomas Moved to Amend Resolution No. 11-227 on page two to change the word
25 "approval" in the 8th Whereas clause to "acceptance" and to change the word "approves" in the first
26 Therefore clause to "accepts" and Councillor Connor Seconded the motion.

27

28

29

30 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 11-227 on page two
31 to change the word "approval" in the 8th Whereas clause to "acceptance" and to change the word
32 "approves" in the first Therefore clause to "accepts" and it was APPROVED. 6-0 Councillor Pedroza
33 was Absent.

34

35

36

37 Councillor Silva asked why wasn't the Armory included as a responsible party to this item?

38

39 Jorge Garcia said this resolution is modifying the original order and accepts the order to construct
40 the project. Since the original order, the EPA has named the State and the Guard as potentially
41 responsible parties so we anticipate that in a future decree.

Special Meeting
June 1, 2011

Page 3

1 Councillor Thomas said the wells have never been used for consumption since this detection;
2 correct?

3

4 Jorge Garcia said that is correct.

5

6

7

8 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-227 as Amended
9 and it was APPROVED. 6-0 Councillor Pedroza was Absent.

10

11

12

13 Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council and
14 Dona Ana County Board of Commissioners met in Closed Session at 9:02 a.m. on June 1, 2011. The
15 following members were in attendance: Mayor Miyagishima, Councillor Silva, Councillor Connor,
16 Councillor Small, Councillor Sorg, Councillor Thomas, City Manager Robert Garza, Acting
17 Assistant City Manager Mike Johnson, City Attorney Harry (Pete) Connelly, Senior Assistant
18 Attorney Marcy Driggers, Utilities Director Jorge Garcia, City Utilities Adrienne Widmer,
19 Commissioner Garrett, Commissioner Saldana-Caviness, Commissioner Perez, Commissioner
20 Krahling, Commissioner Duarte-Benavidez, County Manager Brian Haines, Attorney David
21 Medieros, Attorney John Caldwell and County Risk Manager Ed Frickenstein. Only the limited items
22 listed on the posted notice were discussed which was threatened or pending litigation in the matter
23 of Griggs and Walnut Ground Water Plume Superfund Site, Las Cruces, New Mexico, City of Las
24 Cruces, Dona Ana County, Respondents, United States Environment Protection Agency Region 6
25 Docket No. 06-02-11.

26

27

28

29 **Meeting Adjourned at 10:17 a.m.**