City of Las Cruces®
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Council Action and Executive Summary

Item # 5 **Ordinance/Resolution#** 13-126

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of March 18, 2013 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☐ LEGISLATIVE ☒ ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE CONTINUED ASSESSMENT THROUGH THE BUDGET PROCESS OF A PAYMENT IN LIEU OF PROPERTY TAXES FOR CITY REAL PROPERTY USED BY THE LAS CRUCES UTILITIES.

PURPOSE(S) OF ACTION:

To assess a payment in lieu of property taxes through the budget process.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Marcia B. Driggers	**Department/Section:** Legal/City Attorney	**Phone:** 541-2128
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces operates four (4) utilities systems, specifically, water, wastewater, solid waste and gas, known collectively as the Las Cruces Utilities under the organizational structure of the City's Utilities Department. The Las Cruces Utilities are administered as four (4) distinct enterprise funds and pay all of their operational expenses as well as charges assessed through the City's budget process from revenue collected from approved rates, fees, and charges.

The City of Las Cruces has historically been charging the Las Cruces Utilities through the budget process a fee equal to the lost property tax revenue that the City would have received had City property used by the Utilities Department not been exempt from property taxes. In New Mexico governmental property and other tax exempt property such as churches are valued by County Assessors but property taxes are not assessed and collected like they are assessed on and collected from taxable properties. For taxable properties, the County Assessor values the property and one-third of the assessed valuation is the taxable value less any allowed deduction. The County Treasurer then bills the property owner for property taxes owed based on the applicable mil or tax rate. For properties within the City limits, the non-residential mil rate levied by all taxing jurisdictions (City, County, School District, State and NMSU) is about 3.2% of the net taxable value.

(Continue on additional sheets as required)

Most of the property taxes assessed by the County Assessor and collected by the County Treasurer are used for school funding. However, governmental entities are entitled to increase the property taxes for taxable properties within their boundaries if approved by voters. The City of Las Cruces is entitled to collect about 0.7% of the net taxable value from taxable properties for municipal purposes. The City derives no property tax revenue from governmental and other tax exempt properties. The City has historically recovered that lost property tax revenue from the Las Cruces Utilities as an enterprise fund for such properties as the Utility Operations Center located at 680 Motel Boulevard and the Jacob Hands Wastewater Treatment Plan located at 2855 West Amador Avenue. In FY2012 the City collected over $700,000 from the Las Cruces Utilities for payment in lieu of property taxes. For FY2013 the City is projected to collect over $750,000.

Concerns were raised by the Ratepayers Advisory Committee ("RAC") in the recently concluded natural gas rate case as to whether the City could recover a payment in lieu of property through the budget process. This resolution will formally approve the continued assessment through the budget process of a payment in lieu of property taxes for City property used by the Las Cruces Utilities.

SUPPORT INFORMATION:

1. Resolution.

SOURCE OF FUNDING:

Is this action already budgeted?			
	Yes	☒	See fund summary below
	No	☐	If No, then check one below:
	Budget Adjustment Attached	☐	Expense reallocated from: _____.
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?			
	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $_____for FY__.
	No	☒	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

(Continue on additional sheets as required)

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Gas (5200)	52528010-763200	$144,787	$144,787	$0	N/A
Water (5300)	53538010-763200	$284,669	$284,669	$0	N/A
Wastewater (5400)	54548010-763200	$294,121	$294,121	$0	N/A
Solid Waste (5500)	55558040-763200	$ 28,626	$ 28,626	$0	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the continued assessment through the budget process of a payment in lieu of property taxes for City real property used by the Las Cruces Utilities.
2. Vote "No"; this will not approve the continued assessment through the budget process of a payment in lieu of property taxes for City real property used by the Las Cruces Utilities.
3. Vote to "Amend"; this would allow the Council to modify the resolution.
4. Vote to "Table"; this could allow the Council to postpone consideration of the resolution.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A.

(Continue on additional sheets as required)

RESOLUTION NO. 13-126

A RESOLUTION APPROVING THE CONTINUED ASSESSMENT THROUGH THE BUDGET PROCESS OF A PAYMENT IN LIEU OF PROPERTY TAXES FOR CITY REAL PROPERTY USED BY THE LAS CRUCES UTILITIES.

The City Council is informed that:

WHEREAS, the City of Las Cruces operates four (4) utilities systems, specifically, water, wastewater, solid waste and gas, known collectively as the Las Cruces Utilities under the organizational structure of the City's Utilities Department. The Las Cruces Utilities are administered as four (4) distinct enterprise funds and pay all of their operational expenses as well as charges assessed through the City's budget process from revenue collected from approved rates, fees, and charges; and

WHEREAS, the City of Las Cruces has historically been charging the Las Cruces Utilities through the budget process a fee equal to the lost property tax revenue that the City would have received had City property used by the Utilities Department not been exempt from property taxes. In New Mexico governmental property and other tax exempt property such as churches are valued by County Assessors but property taxes are not assessed and collected like they are assessed on and collected from taxable properties. For taxable properties, the County Assessor values the property and one-third of the assessed valuation is the taxable value less any allowed deduction. The County Treasurer then bills the property owner for property taxes owed based on the applicable mil or tax rate. For properties within the City limits, the non-residential mil rate levied by all taxing jurisdictions (City, County, School District, State and NMSU) is about 3.2% of the net taxable value; and

WHEREAS, most of the property taxes assessed by the County Assessor and collected by the County Treasurer are used for school funding. However, governmental entities are entitled to increase the property taxes for taxable properties within their boundaries if approved by voters. The City of Las Cruces is entitled to collect about 0.7% of the net taxable value from taxable properties for municipal purposes. The City derives no property tax revenue from governmental and other tax exempt properties. The City has historically recovered that lost property tax revenue from the Las Cruces Utilities as an enterprise fund for such properties as the Utility Operations Center located at 680 Motel Boulevard and the Jacob Hands Wastewater Treatment Plan located at 2855 West Amador Avenue. In FY2012 the City collected over $700,000 from the Las Cruces Utilities for payment in lieu of property taxes. For FY2013 the City is projected to collect over $750,000; and

WHEREAS, concerns were raised by the Ratepayers Advisory Committee ("RAC") in the recently concluded natural gas rate case as to whether the City could recover a payment in lieu of property through the budget process. This resolution will formally approve the continued assessment through the budget process of a payment in lieu of property taxes for City property used by the Las Cruces Utilities.

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

(I)

THAT the continued assessment through the budget process of a payment in lieu of property taxes for City real property used by the Las Cruces Utilities is hereby approved.

(II)

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

DONE AND APPROVED on this _____ day of _____, 2013.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Smith: ____
Councillor Pedroza: ____
Councillor Small: ____
Councillor Sorg: ____
Councillor Thomas: ____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

Asst City Attorney