



City Council
of the
City of Las Cruces

Regular Meeting

May 20, 2013
1:00 P.M.

Council Chambers, City Hall

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

MEMBERS PRESENT:

STAFF:

Mayor Ken Miyagishima
Councillor Miguel Silva, District 1
Councillor Greg Smith, District 2
Councillor Olga Pedroza, District 3
Councillor Nathan Small, District 4
Councillor Gill Sorg, District 5
Councillor Sharon Thomas, District 6

Robert Garza, City Manager
Harry (Pete) Connelly, City Attorney
Esther Martinez-Carrillo, City Clerk

DRAFT

I. OPENING CEREMONIES

Mayor Miyagishima called the meeting to order and asked for a moment of silence. Councillor Sorg led the Pledge of Allegiance.

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and a representative from the Animal Services Center of the Mesilla Valley presented the Pet of the Week.

Mayor Miyagishima presented a Certificate of Recognition to the Extreme All-Star Cheer Squad and Jessica Covington for their State Championship.

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?

1
2 No conflicts were noted.

3
4 -----
5

6 **III. PUBLIC PARTICIPATION**

7
8 There was no public participation.

9
10 -----
11

12 **IV. ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY**
13 **AN ASTERISK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON**
14 **BY ONE MOTION.**

15
16 Councillor Thomas Moved to Approve the Agenda and Councillor Sorg Seconded the motion.

DRAFT

17
18
19
20 Mayor Miyagishima called for the roll on the Motion to Approve the Agenda and it was
21 Unanimously Approved. 7-0

22
23 -----
24

25 **V. CITY COUNCIL MINUTES**

26
27 *(1) Regular Meeting of April 15, 2013

28
29 -----
30

31 **VI. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION**

32
33 (2) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 13-156;**
34 **A PUBLIC HEARING MUST BE HELD:**

35
36 Mayor Miyagishima opened the Public Hearing for Resolution No. 13-156 and asked is there
37 anyone who wishes to speak against this item?

38
39 None given.

40
41 Mayor Miyagishima closed the Public Hearing for Resolution No. 13-156.

42

1 I understand that we shouldn't use all of the interest but what do you think about growing the
2 allocation amount?

3
4 Robert Scaling said we currently spend approximately 70% of the earnings that we make and with
5 interest rates being what they are currently and will probably remain low for at least the next two
6 years, we want to be careful that the investments that we are able to make can at least achieve what
7 you guys want to spend.

8
9 Councillor Smith said I want to be sure that in this process we are investing in a way that doesn't
10 embarrass us from the standpoint of how it ends up; you know, showing up in some fund or
11 something that is doing something that we don't agree with and so by doing the equities and those
12 things it looks like we're safe. My concerns came from the policy that allowed investment
13 instruments where any other investment permitted at the time of investments, by the laws of the State
14 of New Mexico and in subsections 9 and 12, it also mentions pools administered at the State level.
15 I would like to know how we are constrained and what the perimeters are that would keep us in a
16 healthy range?

17
18 Robert Scaling said in 2007 when Council was contemplating this subject, a joint powers agreement
19 for the investment of funds was executed between the State Investment Counsel and the City of Las
20 Cruces which was approved as to form. It states that "funds available for more than one year, the
21 State Investment Officer may contract with any State agency to provide investment advisory or
22 investment management services separately or through a pooled investment fund, provided that the
23 State agency enters into a joint powers agreement with the counsel and that State agency pays at least
24 the direct cost for those services." This is the legal authority; the investment allocation that was
25 selected is identical to the investment of the State Land Permanent Fund which is in excess of \$10
26 billion dollars.

27
28 Councillor Smith said hopefully in our process of moving forward with this we are thoughtful and
29 the folks who are doing this on our behalf are thoughtful as far as what investments; obviously we'd
30 love for them to be lucrative but on the other hand we want to be sure they are in keeping with our
31 local standards as well.

32
33 Councillor Sorg asked are there any management fees?

34
35 Robert Scaling said yes, the management fees range between 10 and 25 basis points and they are
36 deducted every month.

37
38 Councillor Pedroza said we are getting more in interest than we are spending on the Health and
39 Human Services; correct?

40
41 Robert Scaling said that is correct.

42

1 Councillor Pedroza said so we can either let that money stay in the fund or we can increase the
2 amount or number of the agencies.

3

4 Robert Scaling said we can keep it in there but Council would have to decide on the other part.

5

6 Councillor Pedroza said as I see it, the economy is severely effecting those agencies so my
7 preference would be that we begin to spend a little bit more of that money.

8

9 Councillor Silva said I think Mr. Scaling has done a really good job in working this asset for the City
10 and I would like to see this fund remain strong. We could look at other funding sources to help
11 compensate or add to the \$300,000 but that is another discussion that maybe we can have during a
12 work shop. How much work do we do with local banks?

13

14 Robert Scaling said we really don't do anything locally concerning investment of City funds but we
15 do have a local banking relationship that is very large and very active. Since we have such a large
16 portfolio and we are able to deal with underwriters of agency debt which none exist locally; the local
17 banks just aren't prepared to deal with us because they don't have traders or immediate access to the
18 agencies that we invest with.

19

20 Councillor Sorg said I just want to point-out that there is an added benefit to investing with local
21 banks because that money goes back into the community so I'd like for us to keep that in mind in
22 the future.

23

24 Councillor Thomas asked what is the average earning per year for these investments?

25

26 Robert Scaling said for the fixed income portion, there is a yield of 3.07% which is about \$450,000
27 per year.

28

29 Councillor Thomas said so on average we have \$450,000 per year and we're only spending \$300,000
30 of it.

31

32 Robert Scaling said that is correct.

33

34 Councillor Thomas said I do agree that we should have further discussion sometime in the future
35 regarding how much we should spend.

36

37 Robert Garza, City Manager said we will have that discussion before we go out for anymore cycles.
38 It is important that we make sure this funding is available in the future so we have to keep inflation
39 in mind and make sure that this continues to have the same value.

40

41 Mayor Miyagishima said maybe we should look at using a case by case basis instead of just
42 increasing the amount. So if an agency really needs the funding we can consider it on a one time
43 basis.

1
2 Councillor Pedroza said I think that is a good idea and we would need to make sure everyone knows
3 there would also be another way to ask for funding instead of just going through the Health and
4 Human Services Board.

5
6 Mayor Miyagishima said maybe we can just have a list of the ones that were funded and ones that
7 were not funded and pick one from the list of agencies that were not funded but we can discuss that
8 at the work session.

9
10 Councillor Small said I think we need to ask a more basic question which is given what we have in
11 our community, what can we do with a recurring revenue source that we know historically is safe?

12
13 Mayor Miyagishima said in today's economy nothing is safe. Does the City have any petty cash that
14 isn't currently earning any yield or very little yield, that we can put in a local bank?

15
16 Robert Scaling said we don't have any funds that aren't invested and even the money we have in the
17 bank has a currently earning credit rate of 50 basis points which is used to offset the City's banking
18 analysis fees.

DRAFT

19
20 Councillor Silva said maybe as preparation work for the work session we could consider going with
21 a percentage like 80% going to reinvest in the City and 20% stays in the fund and have paperwork
22 to show what those numbers would look like.

23
24 Mayor Miyagishima said that might be something to look at; however, if we do that then if you go
25 back a couple of years ago when we didn't have that amount, the non-profits that have been getting
26 it would get less.

27
28 -----

29
30 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 13-157 and it was
31 Unanimously Approved. 7-0

32
33 -----

34
35 (4) Council Bill No. 13-027; Ordinance No. 2682: An Ordinance Repealing LCMC 1997,
36 Article II. Campaign Practices, Sections 8-31 Through 8-67 in Its Entirety and Enacting New
37 Sections Entitled Article II. Campaign Code, Sections 8-31 Through 8-39.

38
39 Councillor Small Moved to Adopt Council Bill No. 13-027; Ordinance No. 2682 and Councillor
40 Sorg Seconded the motion.

41
42 -----

1

2 Harry (Pete) Connelly, City Attorney said we are reappearing from the March 18th meeting with the
3 suggestions from Council for modifications which we have made those modifications and we are
4 prepared to seek your approval of this ordinance.

5

6 Esther Martinez-Carrillo, City Clerk gave an overhead presentation and said I want to mention that
7 there were some administrative changes stated at the March 18th meeting and those changes have
8 been made to the exhibit that is included in your packet. Also, the suggested changes that were
9 requested by Council at the March 18th meeting have been done to the ordinance. The changes
10 include: for Section 8-32, under definitions, the words "Pledge" and "or promise" were removed
11 from the definition, the word "two" was changed to "one" and "are" was changed to "is/are", the
12 words "or every person or corporate officer" was added, and we added a new definition for "Person";
13 for Section 8-33, Purpose and Intent, the word "of" was changed to "by"; Section 8-34 was removed;
14 for Section 8-35, Campaign Treasurer, we changed the time from ten business days to thirty business
15 days; Section 8-36-C-2 was reworded to make it clearer; for Section 8-36-D, we changed the word
16 "single" to "any" and we added the sentence "Except for a candidate's contribution or loan to their
17 own campaign" and we reworded Section 8-36-E to make it in the positive. Section 8-39-G, we
18 added the word "designated." Section 8-37, Report Filing Period, we changed it so that the first
19 report shall be filed 42 days before the election and it will include all contributions and expenditures
20 to a candidate, we removed the requirement of having a letter from the bank stating that the bank
21 account had been closed, we changed the City Clerk's notification of the report filing date time-
22 frame from "1 day" to "10 working days" in advance and for "D" we changed the late fee from \$100
23 to \$50 per day with a maximum of \$1,000. Section 8-38, Election Financial Records, we added "no
24 P.O. Boxes allowed." Section 8-36-C-7 states that if a candidate receives funds from a Political
25 Action Committee and the candidate reports it in their financial statement then the Political Action
26 Committee does not have to report it.

27

28 Councillor Sorg said I assume all these changes don't effect a 503-C4 organization.

29

30 Harry (Pete) Connelly said I don't believe so.

31

32 Councillor Small said in future revisions of this, I think there needs to be a look at including the
33 option of public financing.

34

35 Councillor Thomas said on page 5, 8-37A talks about a final report and just below that, (B) states
36 that by the time of the final report, any contributions not expended on the campaign shall be disposed
37 of at the option of the candidate by one of the following options. This is confusing because it talks
38 about the final report and then it talks about contributions leftover after the report.

39

40 Esther Martinez-Carrillo said it's not referring to having leftover contributions after the report is
41 filed, it is referring to funds that are not expended must be disposed of at the time of the final report.

42

- 1 Councillor Thomas said I just think it will need to be clarified.
2
- 3 Esther Martinez-Carrillo said I will explain it to people when they pick up their packets.
4
- 5 Councillor Smith said I just want to say that in Section 8-37B, Item 4, donations to another candidate
6 is still something that I hope eventually we can change but I understand that is not the will of this
7 Council and I will not oppose passage of this ordinance.
8
- 9 Councillor Silva said I can support this and I think it is a great document but I think it still needs
10 some fine tuning. For example, maybe put in there that once all the candidate's funding is expended
11 then they have something like twenty days to file the final report. Also, on 8-36B it states that we
12 have to file a report if we have expenditures over \$500 but then on the next page it states \$250 so
13 can you clarify that for me? Is it \$500 or \$250?
14
- 15 Harry (Pete) Connelly said 8-36B is read in the context of the NMSA 2010 as a statewide basis of
16 \$500 per calendar year as opposed to a local contribution of \$250.
17
- 18 Councillor Silva said \$250 for a local election makes sense to me. Regarding 8-36D, the contribution
19 limit of \$2,300 is for any Political Action Committee or any person; correct?
20
- 21 Harry (Pete) Connelly said that is correct.
22
- 23 Councillor Silva asked how will we know their bank account has been closed if we aren't requiring
24 a letter from the bank?
25
- 26 Esther Martinez-Carrillo said I can add a sentence at the bottom of the final report that states
27 something like "you are swearing under oath that your account has been closed."
28
- 29 Councillor Silva said I just want to mention that I don't agree with the amount of the late fee being
30 \$50 per day with a maximum of \$1,000 because I don't think it is enough. I agreed with it being
31 \$100 per day with no maximum or having a maximum of something like \$10,000.
32
- 33 Councillor Thomas said 8-37-A1 states that the first report should be filed on the Candidate
34 Declaration date; has it always been that way?
35
- 36 Esther Martinez-Carrillo said previously it was 12 days prior to the election, not more than 30 days
37 after an election, 6 months after an election and then every 12 months after the election.
38
- 39 Councillor Thomas said those reports are difficult to do so will people get directions when they come
40 in and get their packets?
41
- 42 Esther Martinez-Carrillo said yes, and I will have a time-table for them to outline all the important

1 dates.

2

3 Mayor Miyagishima said regarding third party financing, I don't think it is addressed in here but I
4 don't think we should allow it or if we do allow it then it should be counted as a normal contribution.
5 I do think we need to address that at some point but not today.

6

7 Harry (Pete) Connelly said we can take a look at it.

8

9

10

11 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 13-027; Ordinance
12 No. 2682 and it was Unanimously Approved. 7-0

13

14

15

16 **VII. BOARD APPOINTMENTS**

DRAFT

17

18 Mayor Miyagishima appointed Catherine Smith Brenner (Position 4) to the City Art Board.

19

20 Councillor Small Moved to Approve Mayor Miyagishima's board appointment of Catherine Smith
21 Brenner (Position 4) to the City Art Board and Councillor Smith Seconded the motion.

22

23

24

25 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board
26 appointment of Catherine Smith Brenner (Position 4) to the City Art Board and it was Unanimously
27 Approved. 7-0

28

29

30

31 Mayor Miyagishima appointed Kathleen Squires (Position 5) to the City Art Board.

32

33 Councillor Smith Moved to Approve Mayor Miyagishima's board appointment of Kathleen Squires
34 (Position 5) to the City Art Board and Councillor Thomas Seconded the motion.

35

36

37

38 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board
39 appointment of Kathleen Squires (Position 5) to the City Art Board and it was Unanimously
40 Approved. 7-0

41

42

1
 2 Mayor Miyagishima appointed Ricardo Gonzales (Position 7) to the City Art Board.
 3
 4 Councillor Smith Moved to Approve Mayor Miyagishima’s board appointment of Ricardo Gonzales
 5 (Position 7) to the City Art Board and Councillor Thomas Seconded the motion.
 6

7
 8
 9 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima’s board
 10 appointment of Ricardo Gonzales (Position 7) to the City Art Board and it was Unanimously
 11 Approved. 7-0
 12

13
 14
 15 **VIII. NOTICE OF PROPOSED ORDINANCE(S) ----- 1.) *There will be no public discussion.*
 16 2.) *A councillor may ask staff for clarification on the proposed ordinance(s).***

17
 18 (5) Council Bill No. 13-028; Ordinance No. 2683: An Ordinance Approving a Zone Change
 19 from M1/M2 (Industrial Standard) to M1/M2/C-2c (Industrial Standard/Medium Intensity
 20 Commercial Conditional) for a 0.7 Acre Parcel, Number 02-17413, Located at 1810 and
 21 1820 W. Amador Avenue (Case No. 2859). Submitted by the Property Owner, the Burris
 22 Brothers LLC.
 23

24 Mayor Miyagishima and Council agreed to bring this item back.
 25

26
 27
 28 **IX. CITY COUNCIL MEMBER BOARD REPORTS**

29
 30 Councillor Sorg gave a report regarding the Airport Advisory Committee.
 31

32
 33
 34 **X. GENERAL DISCUSSION**

35
 36 b.) City Council
 37

38 Councillor Silva said I would like to request that we remove the Klein Park Fire Truck item from
 39 our work shop list because we have already had several community meetings about it and we have
 40 dedicated \$30,000 to the repair of the fire truck.
 41

42 I would like to commend the Convention Visitors Bureau for the Country Fest this past weekend.
 43 They did a great job and it was a great event.

1
2 We have discussed updating the FEMA maps and there are some people in District 1 that are still
3 having to pay flood insurance so I'd like to get a report on the status of that update.

4
5 I want to mention that this Saturday is the Movie in the Park event and this Sunday is the first Music
6 in the Park event.

7
8 -----
9
10 Councillor Smith said we have efforts moving forward with the Community of Hope to work with
11 some of our homeless population and as part of that effort, immigration into neighborhoods is a
12 natural progression; however, we also want to do that in a way that is sensitive to both the needs of
13 the people who are moving out of homelessness into homes and the people in the neighborhood. So
14 that will be an ongoing discussion in my district and in District 2.

15
16
17
18 Councillor Pedroza said Young Park was full last night with many activities and I attended one of
19 those activities which was the 30th International Aids Candlelight Memorial event which was a very
20 successful event.

21
22 I attended a meeting with Councillor Thomas and Councillor Sorg regarding the planning and
23 business opportunities that are coming to our southern border. The only thing I would caution is that
24 there should be some kind of accommodation or help for those people who might lose their homes
25 to this development.

26
27 The School Garden Partnership is fastly moving along and there are now close to 1,000 children who
28 have daily contact with gardens. Also, we added another school to the program which is Mesa
29 Middle School and it is in District 5.

30
31 I think Young Park is a well-used park so I'd like to make a plea that we try to fund some funding
32 for the bathrooms very soon.

33
34 -----
35
36 Councillor Small said I'd like to request an update regarding the rezoning that took place for the
37 Community of Hope and the status of the situations with the businesses in that area.

38
39 I'd like to congratulate the folks with Safe Routes to School for last week's walk.

40
41 I passed out some handouts to Council that list some of the concerns regarding affordable housing
42 that were mentioned at the last meeting and I would like to get the support of Council but I'm not
43 sure you'd like to proceed Mr. Mayor as we get this outline in writing.

1
2 Regarding the work session schedule, I would like to say that I think it is worthy to have a discussion
3 regarding the fire truck at Klein Park.

4
5 Mayor Miyagishima asked what are you asking for regarding the affordable housing?

6
7 Councillor Small said simply to host it at City Hall.

8
9 Mayor Miyagishima said that will be fine.

10
11 Councillor Small said regarding the PRC representation, I'd be more than happy to put together a
12 draft resolution, receive feedback, and move forward appropriately.

13
14 -----

15
16 Councillor Sorg said I agree with Councillor Small's suggestion of a discussion regarding affordable
17 housing and our possible intervention in the PRC.

18
19 I am glad that the Country Fest was a success and I'd like to suggest that we have another music
20 festival with bluegrass music.

21
22 -----

23
24 Councillor Thomas said I'd like to say "thanks" to staff because I received several emails regarding
25 bollards on the loop-trail and some of them have been taken out.

26
27 I think it might be useful to have a report regarding the Financial Metro Plex meeting because even
28 though a lot of it is what Mexico is doing, it will have a big impact on us.

29
30 On June 28th Scott Bernstein from the Neighborhood of Technologies will be talking about the
31 economic impact of zoning and development types and it will probably be held at the County.

32
33 I do agree with the affordable housing suggestion and I would suggest that the League of Women
34 Voters is also involved in that discussion because they have recently done their own report on
35 affordable housing. There are several people in the development community that are working on the
36 Unified Development Code Project at the County and affordable housing does come in that
37 conversation.

38
39 -----

40
41 a.) Mayor

42

1 Mayor Miyagishima said regarding the Spaceport Committee, I have been advised by Legal that we
2 need to trim it down to just myself and two members of Council to attend the meetings so you can
3 decide among yourselves which two are going to attend.

4
5 Councillor Thomas said I would like to volunteer for that because I'm working on the border
6 economic development so that's a nice balance.

7
8 Mayor Miyagishima said the Mayor's Jazz Fest is kicking-off this Sunday but I have already
9 committed to attending Austin Trout's wedding at the same time so Councillor Thomas can attend
10 the Jazz Fest in my place.

11
12 There are yellow, plastic stands on Triviz that delineates where to turn and I would like to see if
13 there is any chance of having those put on the intersection of Del Rey and Telshor, around the Tee-
14 Time area.

15
16 Brian Denmark, Assistant City Manager said I will have Traffic Engineering look at that intersection.

17
18 Councillor Pedroza said the intersection of Spruce and Triviz was very dangerous but it is now
19 wonderful since they put in those flag things.

DRAFT

20
21 -----
22
23 Councillor Silva said I would support having a work shop regarding affordable housing and the PRC.

24
25 -----
26
27 c.) City Manager

28
29 Robert Garza, City Manager said the whole concept of fixing the Klein Park fire truck is part of
30 our budget for next year and we have a meeting later this week with our Legislators regarding
31 funding for Klein Park.

32
33 Next Monday is Memorial Day so we have no scheduled meetings for that day but beginning in
34 June, we will be very busy and we have a lot of things scheduled for our work sessions.

35
36 -----

37
38 **Meeting Adjourned at 3:18 p.m.**