City Council
of the
City of Las Cruces

Emergency Meeting

October 9, 2013
8:00 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 Greg Smith, District 2	Linda Lewis, Deputy City Clerk
Councillor Olga Pedroza, District 3	
Councillor Nathan Small, District 4	
Councillor Gill Sorg, District 5	
Councillor Sharon Thomas, District 6 Absent	

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I. OPENING CEREMONIES

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

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?

None given.

II. ORDINANCE FOR ADOPTION

(3) Council Bill No. 14-013; Ordinance No. 2698: An Ordinance Adopting a Municipal Hold Harmless Gross Receipts Tax of Three-Eighths of One Percent (.375%); and Declaring an Emergency.

Councillor Pedroza Moved to Approve Council Bill No. 14-013; Ordinance No. 2698 and Councillor Sorg Seconded the motion.

Robert Garza, City Manager said this is an ordinance to impose the three-eighths GRT. We want to ratify the decision that you previously made but to do so in a form and format that is consistent with the requests of the Tax and Revenue Department. They reviewed your previous action and they questioned the specific reference to the applicability of the no tax on food and medicine and the lack of addressing satellite services taxation. While we believe the original document still stands and had merit, maybe there were arbitrary decisions to not accept that; so, today we are asking you to put in place an ordinance that exactly meets the requirements of what they asked us to do. I also want to state that in addition we are not repealing our original ordinance because we still believe that it has merit and still has standing.

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Councillor Smith said my concern was with the use of the emergency clause or action to do something like this but it was explained to me that it can be used for situations like this where is has a significant impact on the finances of a municipality but I wanted to be clear that it was on the record because there have been concerns expressed about the use of the emergency.

Mayor Miyagishima said in the Open Meetings Act Booklet it talks about great financial harm to municipalities as being one of the reasons to call for an emergency meeting. We have $4 million at stake here so time is of the essence.

Robert Garza read the actual language of the Open Meetings Act regarding emergency meetings and said we have also called for emergency meetings in the past for financial matters during bond sales.

Councillor Pedroza said in our previous ordinance we included that it would not apply to food and medicine and excluded satellite distribution and that made our ordinance non-conforming. I had read somewhere that there were other items that we either included or excluded that also made our ordinance non-conforming so I'm wondering if we covered everything.

Robert Garza said those were the only two items cited by the Taxation and Revenue Department.

Mayor Miyagishima said this mirrors their model ordinance.

Councillor Sorg said if this is passed today then do we know when it will take effect?

Robert Garza said it will go into effect either on January 1st or July 1st; it will go into play whenever the Taxation and Revenue Department has sufficient information to put it into place. Our goal is to

urge them to accept the notice that we gave them in September as reasonable notice of our intentions and this is simply a clean-up of the paperwork.

Councillor Silva said I was the only one to vote no when we first passed this and I am going to continue to not support it. I disagree that this is an emergency because it doesn't go into effect until 2015 and the $4 million that we are talking about is in addition to the funds that we will receive from the Hold Harmless agreement. I have felt from the very beginning that this is bad government and bad legislation and it's politically motivated. I feel this needs to be fixed at the state level and we should be an example of a statewide solution rather than enter into this cat and mouse game with the state. I think staff could give us a five-year reduction plan that should be before us in case this doesn't go forward so my position still stands for not supporting this tax.

Councillor Small said I do intend to support this because it is consist action that is going to best position us fiscally to tackle the many challenges that we have seen and will continue to see as the Hold Harmless is phased out.

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Councillor Smith said as I see it, this is really not a question of the situation having changed from when we voted but simply a question of cleaning up the language so as such I stand firm with our previous vote and plan to vote yes on this one.

Councillor Sorg said I'm looking down the road, 15 to 17 years from now, and people in my district have been crying for better services such as infrastructure and so forth and if we do not do this then I can see a serious loss for all our citizens.

Councillor Pedroza said I also stand firm and will vote to approve this newly revised ordinance.

Councillor Silva said I am presuming that this emergency meeting is being held as a financial welfare however it does not go into effect until 2015 so that means we have two years that we can work with the state to come up with solutions because the problem started at the state level. The Municipal League has already come up with two drafts to re-initiate the Hold Harmless so I don't think building a piggy bank constitutes a danger to the community.

Mayor Miyagishima said this is not regarding the lack of Hold Harmless that is suppose to be phased out two years from now; this is the ability of the state to allow us gross receipts tax and there is certain cutoff dates before you do it, before January 1st , and if it is not allowed then they will push it to July. The difference from January 1st to July 1st is where we would be losing the $4.4 million. Even with the 3/8% the City of Las Cruces years from now is going to experience a slight gap of loss of revenue so this money would help sow that gap up.

Mayor Miyagishima called for the roll on the Motion to Approve Council Bill No. 14-013; Ordinance No. 2698 and it was Approved. 5-1 Councillor Smith, Councillor Pedroza, Councillor Small, Councillor Sorg and Mayor Miyagishima voted Aye. Councillor Silva voted Nay. Councillor Thomas was absent.

Councillor Smith Moved to Adjourn and Councillor Small Seconded the motion.

Mayor said all of those in favor signify by saying "Aye."

Council said "Aye."

Meeting Adjourned at 8:22 a.m.

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