City Council
of the
City of Las Cruces

Regular Meeting

June 22, 2009
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:	**STAFF:**
Mayor Ken Miyagishima	Terrence Moore, City Manager
Councillor Miguel Silva, District 1	Fermin Rubio, City Attorney
Councillor Dolores Connor, District 2 **Absent**	Esther Martinez, City Clerk
Councillor Dolores C. Archuleta, District 3	
Councillor Nathan Small, District 4	
Councillor Gil Jones, District 5	
Councillor Sharon Thomas, District 6	

I. OPENING CEREMONIES

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

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and Jeannie Massaway presented the Pet of the Week.

Mayor Miyagishima presented a Certificate of Recognition to Croix Miller for his West Point appointment.

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.

III. PUBLIC PARTICIPATION

Frank Bryce, Vice President of the Humane Society for Southern New Mexico gave a presentation and said I sent a letter to staff and all the City Councillors regarding my issues with the running of the Animal Shelter. There was a situation with court held dogs being transferred to the already overly populated shelter and there was such a tremendous response that this decision was overturned and these dogs were not taken to the shelter.

Bill Heart, Southern New Mexico Beagle and Basset Hound Rescue said we need to stop all the puppies that are being born by backyard breeders. I would suggest that you have a joint meeting with the County and animal groups to discuss this issue.

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

Mayor Miyagishima said Item 2 needs to be removed from the Consent Agenda for discussion.

Councillor Archuleta Moved to approve the Agenda as Amended and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to accept the Agenda as Amended and it was APPROVED. 6-0 Councillor Connor was absent.

V. CITY COUNCIL MINUTES

*(1) Regular Meeting of June 1, 2009

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

*(2) Resolution No. 09-316: A Resolution Supporting a Federal Department of Peace and Nonviolence.

Councillor Archuleta Moved to Adopt Resolution No. 09-316 and Councillor Silva Seconded the motion.

Tim Reed gave a presentation and said I am working with a group of citizens who are trying to gain support for the passage of HR808 which would allow about two cents of every tax dollar spent to go toward violence reduction and non-violent resolutions.

Councillor Silva said this would address violence at all levels.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-316 and it was APPROVED. 6-0 Councillor Connor was Absent.

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(3) Resolution No. 09-317: A Resolution Approving a Waiver Request for No Road Improvements to 275 + Linear Feet Along Peachtree Hills Road, Generally Located East of Porter Drive and South of Peachtree Hills Road. Submitted by Southwest Engineering For Victor and Armida Ramirez. (S-08-103W).

Councillor Jones Moved to Adopt Resolution No. 09-317 and Councillor Archuleta Seconded the motion.

Cheryl Rodriguez, Development Services Administrator gave a presentation and said this is a request for a waiver of the Municipal Code as part of a subdivision application to divide this property into two residential dwelling lots. This went through staff review and was forwarded to the Development Review Committee which they recommended a denial of this request based upon the current City policy. This was then forwarded to the Planning and Zoning Commission which they recommended approval of the waiver request based on their analysis for a financial hardship.

Paul Pompeo, Southwest Engineering Agent gave a presentation and said the applicant does wish to create another lot and they will be doing their pro-rata share of the right of way requirements which is required by the subdivision ordinance. The preliminary cost of the improvement requirements which includes curbs, sidewalks and street lighting is approximately $75,000. The applicant is seeking a waiver of the current City's design standard because the cost to improve this section of Peachtree Hills Road is excessive; just for the creation of one additional residential lot. The current roadway, as it is now, would be sufficient for access to both the lots. On April 28, 2009, the Planning and Zoning Commission did recommend approval of this waiver.

Mayor Miyagishima asked are they selling these lots?

Paul Pompeo said no, both lots are staying within their family.

Councillor Jones said in my view, we have a broken system and this is a perfect example of it. We expect the property owner to cover the whole cost of the road and in most cases, the property owner has several lots to cover the cost of the improvements but that is not the case for this property owner.

Councillor Archuleta asked what would the property look like if this waiver is approved?

Cheryl Rodriguez said there will be access off of Peachtree Hills to this property and they are planning on building a single family dwelling unit on the property.

Mayor Miyagishima said I think Council agrees that the cost of $75,000 is excessive but I think there should be something paid toward these improvements. Is there any commercial property on either side of Peachtree Hills?

Paul Pompeo said no, not in this area.

Cheryl Rodriguez said this area is predominately single family residential.

Councillor Jones asked how many times can this property be subdivided?

Paul Pompeo said I believe it could be done as low as 5,000 square foot lots but we typically attach a note to the plat stating that there was a waiver done and stipulate that no further subdivision of this property can be done without the appropriate road improvements.

Fermin Rubio, City Attorney said you can attach that condition to the waiver as part of its condition for approval.

Councillor Jones Moved to Amend Resolution No. 09-317 to include that if the property owner subdivides the property further or re-zones the property then they would be responsible for the pro-rata share of the road improvements, even if the road improvements have already taken place and Councillor Archuleta Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 09-317 and it was APPROVED. 6-0 Councillor Connor was Absent.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-317 as Amended and it was APPROVED. 6-0 Councillor Connor was Absent.

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(4) Resolution No. 09-318: A Resolution Authorizing Submission of an Application From the City of Las Cruces to the New Mexico Energy, Minerals and Natural Resources Department, State Energy Program and Energy Efficiency Conservation Block Grant Program, 2009 Clean Energy Demonstration Program Grant. Funds Are Provided to the State of New Mexico Through the American Recovery and Reinvestment Act (ARRA).

Councillor Silva Moved to Adopt Resolution No. 09-318 and Councillor Archuleta Seconded the motion.

Mark Sutter, Finance Director gave a presentation and said this is a competitive grant that is being offered and the awarded amount will run from $50,000 to $500,000. The programs available for this funding are listed as option one which is the City Street Light Retro-Fit Project and option two which is the Convention Center Enhancement Project. The due date for the grant application is June 26th which is why we have to move quickly on this decision.

Mayor Miyagishima said we can save a lot of money with the Street Lighting Project.

Councillor Jones said we're not sure of the impact for this, correct?

Mark Sutter said that is correct but this is only for applying for the grant. We will be able to tell Council exactly what the obligations are before we sign on the dotted line.

Councillor Jones said on page 83 of the packet, it talks about all the agreements and contracts; do we know if we will have to renegotiate certain components of our lease with NMSU?

Mark Sutter said we don't know the answer to that, yet.

Councillor Small said there are some very positive benefits with the Convention Center. They are planning on using this facility as a place for learning about saving energy. I think the Convention Center would be a good selection for these funds.

Councillor Jones said I would support the Street Lighting Project because of the amount of savings it would have for the City. The amount of savings we would have for the Convention Center, would be saving the visitors money. I am more interested in saving money for the citizens of Las Cruces.

Councillor Small said the Convention Center is being built for our economic development and making the facility energy efficient would also save us money.

Councillor Thomas said I know that some cities are putting several projects down on the list to try to increase their chances for getting this funding. I think we should pay attention to that possibility and maybe list more than one project.

Auguie Henry, Grant Writer said I think their approach depends on where they are from and if they have received any other funding. We only have about twelve days to apply for this grant and the project has to be ready to go and already on the books.

Mark Sutter said in applying for these funds, the Convention Center Project is more complicated than the Street Light Project. We feel confident that we can do the Street Lights and meet the performance criteria but there are many unknowns for the Convention Center which makes it more difficult.

Mayor Miyagishima said we are pretty much set for the Convention Center, we're not expecting to need any more financing, correct?

Mark Sutter said that is correct.

Mayor Miyagishima said this funding would allow us to do about 10% of the lights in the City. If we wanted to do all the lights in the City, could we get financing to cover the cost and then pay the debt with the savings?

Mark Sutter said we would have to do a GRT bond to have a pledge able revenue because they wouldn't just take our projected savings. We are down about 3% in our GRT compared to last year's so I wouldn't encourage Council to look at dedicating our GRT at this time.

Terrence Moore, City Manager said the purpose of this presentation was to discuss the pros and cons of each proposal and we are prepared to go in whatever direction that Council directs us to go; however, we can't submit two applications at the same time.

Councillor Silva said we can submit two or three proposals, there is nothing stated in the grant that limits us to only one application. The Convention Centers meets at least ten of the thirteen components. Do we have a base line for the Convention Center to measure the kilowatts per energy and do we anticipate any alterations to the design of the building?

Steve Newby, Architect said new buildings are a little bit different than existing buildings; there are calculations done by the contractor and the LEED consultants that are presented in detail, the way the energy uses will be over a one year period then you take that information and create your base line to calculate the amount of money you will be saving on your energy cost. Currently, we are calculating that there will be about $45,000 to $63,000 in energy savings per year.

Councillor Silva said I like the Convention Center Project and I think it would score on a much higher scale than the Street Lights Project.

Terrence Moore said we need to remember that the maximum amount available is $500,000 and if we submit for both projects then the money would be split between the two projects.

Councillor Archuleta said I am not in favor of submitting both projects. If we go with Option 1 which is the Convention Center, would we be able to meet the deadline?

Auguie Henry said I'm not an engineer so I don't really know but they would have to have that project 90% completed by September 30, 2010.

Steve Newby said we have reviewed the time schedule that was submitted by Jaynes Construction and if we had to meet a deadline then we will meet that deadline.

Councillor Archuleta said I would go for selecting Option 1, the Convention Center.

Councillor Archuleta Moved to Amend Resolution No. 09-318 to include Option 1 and Councillor Thomas Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 09-318 and it was APPROVED. 5-1 Councillor Silva, Councillor Small, Councillor Thomas, Councillor Archuleta and Mayor Miyagishima voted Aye. Councillor Jones voted Nay. Councillor Connor was Absent.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-318 as Amended and it was APPROVED. 6-0 Councillor Connor was Absent.

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(5) Resolution No. 08-09-604: A Resolution Authorizing the Application for and Acceptance of Three Grants, Federal Airport Improvement Program Grant No. 03-035-0024-22 in the Amount of $8,097,163.00, Federal Airport Improvement Program Grant 03-035-0024-23 in the Amount of $2,733,661.00, New Mexico Department of Transportation Aviation Division Grant in the Amount of $71,938.00, and Approving a Bid Award to J.A.R. Concrete, Inc., of El Paso, Texas, in the Amount of $9,045,916.59 for the Runway 12-30 Rehabilitation Construction at the Las Cruces International Airport.

Councillor Small Moved to Adopt Resolution No. 08-09-604 and Councillor Silva Seconded the motion.

Lisa Murphy, Airport Manager gave a presentation and said we are hoping to start this project on July 13th and it will take about 9 months to complete.

Councillor Archuleta asked will this contractor bring his own crew or will he hire one from here?

Lisa Murphy said I don't know what his plans are regarding that issue.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 08-09-604 and it was APPROVED. 6-0 Councillor Connor was Absent.

VIII. BOARD APPOINTMENTS

Mayor Miyagishima appointed Isaac Chavez to the Ratepayer Advisory Board.

Councillor Jones Moved to Approve the Board Appointment and Councillor Archuleta Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Board Appointment and it was APPROVED. 6-0 Councillor Connor was Absent.

IX. REVIEW OF PROPOSED ORDINANCE(S)

(6) Council Bill No. 09-065; Ordinance No. 2528: An Ordinance Granting to El Paso Electric Company, a Corporation Organized and Existing Under and By Virtue of the Laws of the State of Texas, Its Legal Representatives, Successors, Lessees and Assigns, Certain Powers, Licenses, Rights of Way and Privileges to Maintain, Erect, Construct, Equip, Conduct and Operate in the City of Las Cruces, New Mexico, Works, Systems, and Plants to Generate, Manufacture, Use, Store, Sell Distribute, Convey or Otherwise Use, Conduct, Serve, Supply and Furnish Said City, Its Inhabitants and Others Electricity for Light, Heat and Power, and Other Useful Service, and to Use the Streets, Avenues, Alleys, Highways, Public Ways, Sidewalks, Bridges, and Grounds of Said City, For a Period of Up to Fifteen (15) Years, and Prescribing Certain Terms and Conditions Therein Mentioned.

Mayor Miyagishima and Council agreed to bring this item back on August 17, 2009.

(7) Council Bill No. 09-066; Ordinance No. 2529: An Ordinance Approving a Zone Change From R-3 (Multi-Dwelling Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and Office) for 2.73 +/- Acres Located at 1500 E. Madrid Avenue. The Zone Change Request Will Bring the Property Into Compliance With the 2001 Zoning Code, as Amended. The Subject Property Exceeds the Maximum Allowable Density of Twenty (20) Dwelling Units Per Acre. Submitted by Yes Housing, Inc. For Alta Tierra Apartments Limited Partnership (Z2787).

Mayor Miyagishima and Council agreed to bring this item back.

X. STATUS/UPDATES ON CURRENT PROJECT LIST

1. **Strategic Plan** - *(Currently collecting information and obtaining feedback from executive leadership, elected officials, and citizens.)*
2. **Sustainability Officer** - *Posting closed. One hundred and thirty one (131) applicants. Initial screening of applicant underway.*

3. **Las Cruces Center** - *(Status report provided monthly on second, Regular City Council Meeting)*
4. **Downtown** - *Design of the project construction plans is moving forward. Efforts are being made to incorporate public comments received at recent public input meeting. Initial site assessment for environmental portion of project underway.*
5. **Impact Fees** – Consultant is presently revising Phase II ICIP report to incorporate recent City Council comments. Change order forthcoming to Council to cover additional costs for project.
6. **Aquatics Center** - *(Status report provided monthly on first, Regular City Council Meeting)*
7. **Vision 2040** - *(The consultants are finishing the drafts of the Vision 2040 Regional Plan and Dona Ana County Comprehensive Plan. The draft of the Las Cruces Comprehensive Plan is under review by city staff. After staff review and revisions, the draft plans will be presented for public review.)*

XI. GENERAL DISCUSSION

1. Mayor

Mayor Miyagishima passed.

2. City Council

Councillor Archuleta passed.

Councillor Thomas passed.

Councillor Jones passed.

Councillor Small passed.

Councillor Silva asked is it possible to put something on the main web page to inform the public of the changes that have been made regarding the online agenda?

Don Bustamante, IT Director said we will explore the possibility of having a link to the online agenda on the main web page.

Councillor Silva said I think we need to have a work session to discuss the cell phone ordinance again and to discuss the process for applying for these stimulus package grants.

3. City Manager

A. Other Items - Information Only

None given.

Meeting Adjourned at 5:25 p.m.