City Council
of the
City of Las Cruces

Regular Meeting

August 3, 2009
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:	**STAFF:**
Mayor Ken Miyagishima **Absent**	Terrence Moore, City Manager
Councillor Miguel Silva, District 1	Fermin Rubio, City Attorney
Councillor Dolores Connor, District 2	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 Pro-tem Archuleta called the meeting to order and asked for a moment of silence. Councillor Small led the Pledge of Allegiance.

Ron Camunez sung the National Anthem.

Presentation of Certificates of Appreciation/Proclamations.

Mayor Pro-tem Archuleta and Jeannie Masaway presented the Pet of the Week.

Mayor Pro-tem Archuleta presented a Medal of Appreciation to WWII Veteran Antonio H. Enriquez.

Mayor Pro-tem Archuleta presented a Medal of Appreciation to WWII Veteran Felix G. Provencio.

Councillor Connor presented a Proclamation to Michael Fleming and declared August 3, 2009 as Michael Fleming Day in Las Cruces.

Councillor Small presented a Proclamation to Marcia Salinas of Target and declared August 4, 2009 as National Night Out in the City of Las Cruces.

Terrence Moore, City Manager gave a presentation regarding the award given to Las Cruces by Playful Cities.

Mark Johnston, Parks Administrator gave an update on the Walk of Honor.

Mayor Pro-tem Archuleta read a Closed Meeting Statement and said the Las Cruces City Council met in a closed session at 11:00 a.m. on August 3, 2009. The following members were in attendance: Councillor Silva, Councillor Connor, Councillor Archuleta, Councillor Small, Councillor Jones, Councillor Thomas, City Manager Terrence Moore, Assistant City Manager Robert Garza, City Attorney Fermin Rubio, Deputy City Attorney Harry (Pete) Connelly, Attorney BJ Reeves, Public Works Director Mike Johnson, Utilities Director Jorge Garcia, Community Development Director David Weir and Police Chief Harry Romero. The meeting adjourned at 12:30 p.m. and only discussed those limited items as stated in the posted notice.

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 Pro-tem Archuleta asked if anyone had any conflicts with anything on the agenda?

None given.

III. PUBLIC PARTICIPATION

Loyd Covens, Member of the Public said in two weeks, you will be voting on the franchise agreement with El Paso Electric and I have submitted a summary of my views regarding this issue to the City Clerk.

Saul Renteria, Member of the Public said I am a labor representative with the Labor Union and I understand that this City is having issues with their bidding process. I am from California and we don't have these types of issues. I would suggest that you look at how they do their bidding.

Terrence Moore, City Manager said we would be happy to take a look at whatever you have but California has different State legislation in place. We are making progress on our bidding process.

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 Pro-tem Archuleta said Items 2 and 6 need to be removed from the consent agenda for discussion.

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

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

V. CITY COUNCIL MINUTES

*(1) Regular Meeting of July 6, 2009

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

*(3) Resolution No. 10-045: A Resolution to Accept the State of New Mexico, Department of Finance & Administration, Local Government Division Grant Agreement Amendment No. 1 to the Laws 2008 Grant Agreement, Exhibit "A", Adjust the City's FY 2009/2010 Budget, and Carry-Over the Balance of State Project #08-L-G-4283.

*(4) Resolution No. 10-046: A Resolution Accepting an Amended Inter-Governmental Agreement Between the City of Las Cruces and Doña Ana County Related to the FYI Transitional Living Facility. The Resolution Increases the Dollar Amount Appropriated From the County to the City and for the Project. The Resolution Authorizes the City Manager to Accept All Amendments to the Agreement Excluding Any Changes to the Budget. The Resolution Amends the City's FY2009/2010 to Reflect the Changes Within the Amended Inter-Governmental Agreement.

*(5) Resolution No. 10-047: A Resolution Approving a Contract Between the City of Las Cruces and Ballet Folklorico De La Tierra Del Encanto Foundation for the Use of the Shannon Room Auditorium at the Branigan Cultural Center.

*(7) Resolution No. 10-049: A Resolution Accepting a Grant From the New Mexico Department of Transportation, Municipal Arterial Program, Fiscal Year 2009/2010, in the Amount of $228,000.00 For the Rehabilitation of Amador Avenue From Archuleta Street to Motel Boulevard Project and to Amend the Fiscal Year 2009/2010 Budget.

*(8) Resolution No. 09-10-311: A Resolution Authorizing the City of Las Cruces to Enter Into An Agreement With Blanchard Engineering, Inc.; Bohannan-Huston; Souder, Miller & Associates; and Summit Engineering All of Las Cruces, NM and Wilson & Company of Albuquerque, NM to Provide On-Call Surveying Services to the City on An As-Needed Basis in An Amount Not to Exceed Approved City Council Budgets.

*(9) Resolution No. 09-10-329: A Resolution Awarding a Bid for the Fiscal Year 2009/10 Overlay Maintenance Project to Cutler Repaving, Inc. of Lawrence, Kansas in the Amount of $439,261.70 Plus $32,670.09 for New Mexico Gross Receipts Tax. The City Manager Is Authorized to Approve Change Orders in an Amount Not to Exceed $21,963.09 for a Total Project Authorization in the Amount of $493,894.88.

*(10) Resolution No. 09-10-336: A Resolution Approving an Indefinite Quantity, Indefinite Cost Price Agreement for Lubricating Products to Tigua Enterprises, Inc., F/K/A Big Bear Oil Company, of El Paso, Texas for Two (2) Remaining Years of a Five (5) Year Cost Price Agreement Subject to Approved Budget Appropriations and Annual Renewal From Original Bid No. 05-06-338.

*(11) Resolution No. 09-10-339: A Resolution Authorizing the Restriping Work of Various City Streets to San Bar Construction of Albuquerque, NM in the Amount of $139,620.12 Plus $10,384.25 for New Mexico Gross Receipts Tax. The City Manager is Authorized to Approve Change Orders in an Amount Not to Exceed $13,962.01 for a Total Project Authorization in the Amount of $163,966.38.

VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

*(2) Resolution No. 10-044: A Resolution Calling for the Election of Councillors for Districts 3, 5, and 6; and Municipal Judge on Tuesday, November 3, 2009.

Councillor Connor Moved to Adopt Resolution No. 10-044 and Councillor Jones Seconded the motion.

Esther Martinez, City Clerk gave a presentation and said this election will be held on November 3, 2009 and the positions up for election are the District 3 Councillor, District 5 Councillor, District 6 Councillor and a Municipal Judge. The candidate filing date is on September 22, 2009 between the hours of 8:00 a.m. thru 5:00 p.m. at the City Clerk's office. There was a change from Alameda Elementary to the Holy Cross Church as a polling site for precincts 30, 31 and 37.

Councillor Small said even though Mayfield High School is in District 4, I guess it is the polling place for District 1.

Esther Martinez said that is correct, we have always used Mayfield High School as a polling site.

Mayor Pro-tem Archuleta called for the roll on the Motion to Adopt Resolution No. 10-044 and it was APPROVED. 6-0 Mayor Miyagishima was absent.

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*(6) Resolution No. 10-048: A Resolution Approving a Government Services Agreement with the New Mexico Energy, Minerals, and Natural Resources Department (EMNRD) in the Amount of $30,000, and a Memorandum of Understanding with the New Mexico Department of Transportation (NMDOT) in the Amount of $31,000 to Fund Fiscal Year 2010 Operations of the Rideshare Program and to Amend the Budget Accordingly.

Councillor Connor Moved to Adopt Resolution No. 10-048 and Councillor Jones Seconded the motion.

Councillor Silva said I just wanted to know if we were required to put down matching funds?

Michael Bartholomew, Transit Administrator said we are required to put down a minimum of ten percent.

Councillor Silva asked how much was budgeted for this match?

Michael Bartholomew said about $7,000 in City funds.

Councillor Silva said I think it should be stated within the resolution that there is matching funds even though it has already been budgeted.

Councillor Silva Moved to Amend Resolution No. 10-048 to add "Whereas the City is required by the NMDOT to provide a minimum of ten percent match" and a second "Whereas the City will provide a match in the amount of $7,030.00 to the program" and Councillor Small Seconded the motion.

Mayor Pro-tem Archuleta called for the roll on the Motion to Amend Resolution No. 10-048 to add "Whereas the City is required by the NMDOT to provide a minimum of ten percent match" and a second "Whereas the City will provide a match in the amount of $7,030.00 to the program" and it was APPROVED. 6-0 Mayor Miyagishima was absent.

Mayor Pro-tem Archuleta called for the roll on the Motion to Adopt Resolution No. 10-048 as Amended and it was APPROVED. 6-0 Mayor Miyagishima was absent.

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(12) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 10-050; A PUBLIC HEARING MUST BE HELD.**

Mayor Pro-tem Archuleta said this item is now open for a public hearing. Is there anyone who wants to speak against this item?

None given.

Resolution No. 10-050: A Resolution Approving the Issuance of a Master Winegrower Liquor License (Wine Production) to Amaro Winery, LLC D/B/A Amaro Winery, to Be Located at 601 West Amador, Las Cruces, New Mexico.

Councillor Connor Moved to Adopt Resolution No. 10-050 and Councillor Small Seconded the motion.

Mayor Pro-tem Archuleta called for the roll on the Motion to Adopt Resolution No. 10-050 and it was APPROVED. 6-0 Mayor Miyagishima was absent.

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(13) Resolution No. 10-051: A Resolution Approving the Establishment of a Centralized Grants Administration Office, Adding a Grant Administrator to Staff, and Adjust the City's FY 2009/2010 Budget.

Councillor Connor Moved to Adopt Resolution No. 10-051 and Councillor Thomas Seconded the motion.

Mark Sutter, Finance Director gave a presentation and said you have already received a couple of reports; there was a phase one and a phase two of the internal audit. One was a report on the grant administration process in the City and to put it positively, there was much room for improvement. One of the recommendations was that we should use a centralized grant administration function to coordinate all of the efforts that go into the grant administration.

Councillor Small said we are currently experiencing a high volume of grants but when it goes back down, what would the function be for that office?

Mark Sutter said we took a conservative approach to the centralization process, we are only hiring one full time person and hiring grant writers on a contract basis.

Councillor Silva asked is there going to be a policy that states each department has to bring their grant applications to this department?

Mark Sutter said we already have a City Manager policy regarding grant applications but the grant administrator will be involved with developing procedures for the grant process.

Councillor Thomas asked is the City notified of potential grants when they come up?

Mark Sutter said I'm not aware of that but I will check with our grant staff.

Russ Warner said this make sense and it should help the City to get maximum results from available grants.

Mayor Pro-tem Archuleta called for the roll on the Motion to Adopt Resolution No. 10-051 and it was APPROVED. 6-0 Mayor Miyagishima was absent.

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(14) Resolution No. 10-052: A Resolution Approving and Accepting a Grant Agreement Between the City and the State of New Mexico Children, Youth, and Families Department for the Dona Ana County Juvenile Justice Continuum. The Resolution Authorizes the City Manager to Sign the Agreement on the City's Behalf and Further Authorizes the Necessary Sub-Agreements with Outside Partnering Entities of the Continuum for Eligible Grant Activities for FY2010. The Resolution Amends the City's Adopted FY 2010 Budget to Reflect Additional Funding to the City's Juvenile Citation Program, to Account for State Budget Cuts.

Councillor Connor Moved to Adopt Resolution No. 10-052 and Councillor Thomas Seconded the motion.

David Dollahon, Neighborhood Services Administrator gave a presentation and said the City is serving as the fiscal agent for this as mandated by the Juvenile Justice Act. The grant amount is $134,000 and the City's match both in cash and in-kind services is $56,000.

Mayor Pro-tem Archuleta called for the roll on the Motion to Adopt Resolution No. 10-052 and it was APPROVED. 6-0 Mayor Miyagishima was absent.

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(15) Resolution No. 08-09-519: A Resolution Awarding a Contract for the Design of the Regional Recreation and Aquatic Center Phase II - Known as the Natatorium - Project Number 08-09-519, to ASA Architects, P.A., of Las Cruces, New Mexico, in the Amount of $323,848.00; Plus NM Gross Receipts Tax of $24,086.20; Plus Authorizing a City Manager Contingency of $32,385.00; for a Total Project Authorization of $380,319.20.

Councillor Connor Moved to Adopt Resolution No. 08-09-519 and Councillor Jones Seconded the motion.

Eric Martin, Project Management Administrator gave a presentation and said I would like to give an update on the swimming pools; Laabs and the East Mesa Pool have released their summer/fall operations schedule. We anticipate both of these pools to be open until Labor Day and then we will try to keep them open on weekends through the month of September. There is routine maintenance

that needs to be done on Frenger Pool and it will be shut down for a couple of weeks this month but we haven't set the exact dates yet.

We are about 25% completed with the Regional Aquatic Center and we are currently working on Phase 1A of the project.

Councillor Connor said when you give us this report in September, can you include the number of people who are attending the East Mesa Pool and the Laabs Pool?

Eric Martin said we will get those numbers together for you.

Councillor Jones said we also need to know how many lifeguards we will need for next summer so we can be better prepared next year.

Eric Martin said we will get that information for you as well.

Eric Martin said this item is for phase two of the Regional Aquatic Center which is the aquatic portion of the project. In 2008, the State Legislature authorized $594,000 through State grant funds for us to proceed with the designing of the aquatic facility. This resolution would award the designing contract to ASA Architects.

Jack Welchen, Aqua Group Representative said we are in support of having a multi-purpose community pool and we would like to ask Council to approve this resolution.

Terrence Moore said I would like to ask Council for a consensus for us to begin a community wide education process to inform the public on what this facility will be all about.

Councillor Silva asked how many bidders bid on this contract?

Eric Martin said there was a total of 10 bidders.

Fermin Rubio said we need to stay away from asking for a consensus and only vote on this item.

Terrence Moore said we can proceed with this administratively, without a consensus from Council.

Fermin Rubio said that is correct.

Mayor Pro-tem Archuleta called for the roll on the Motion to Adopt Resolution No. 08-09-519 and it was APPROVED. 6-0 Mayor Miyagishima was absent.

VIII. BOARD APPOINTMENTS

None given.

IX. REVIEW OF PROPOSED ORDINANCE(S)

(16) Council Bill No. 10-003; Ordinance No. 2532: An Ordinance Amending the Las Cruces Municipal Code Sections 24-62, 24-91, 24-92, and 24-94 to Increase Contract Award Participation by Local Business or Manufacturing Entities for Needed Goods, Services and Construction.

Mayor Pro-tem Archuleta and Council agreed to bring this item back.

(17) Council Bill No. 10-004; Ordinance No. 2533: An Ordinance Amending the 2001 Las Cruces Zoning Code, as Amended by Adding a New Section Entitled 38-63 Demolition Delay, Reuse and Adaptive Reuse - Historic Structures for the Purpose of Establishing a Mandatory Sixty Day Time Period Prior to Demolition (Either in Part or in Whole) of Registered Historic Structures in Which Investigation of Alternatives to the Demolition May Occur.

Mayor Pro-tem Archuleta and Council agreed to bring this item back.

(18) Council Bill No. 10-005; Ordinance No. 2534: An Ordinance Repealing and Replacing Division 11, Section 30-491 (Demolition: Residential and Commercial/Nonresidential, Building Permit and Inspection Process - Application Procedure) of the 2009 Las Cruces Building Code in Order to Provide Procedural Requirements Consistent With 2001 Las Cruces Zoning Code Provisions When Demolition of Registered Historic Structures in Whole or In Part Is Proposed.

Mayor Pro-tem Archuleta and Council agreed to bring this item back.

X. STATUS/UPDATES ON CURRENT PROJECT LIST

1. **Strategic Plan** - *(Meeting held with Council and executive staff on July 23 to review draft. Report due in early August.)*
2. **Sustainability Officer** – *(Interviews continuing through the first week of August, Hiring recommendation shortly thereafter.)*

3. **Las Cruces Convention Center** - (Status report provided monthly on second, Regular City Council Meeting)
4. **Downtown** - *(The project design is ongoing with Bohann-Huston, Inc. The city is working on the final details for the proposed cul de sac on Lucero Ave. The anticipated completion of the design for the north end portion is August 28, 2009.)*
5. **Impact Fees** - (A change order to revise the draft impact fee capital improvements plan (IFCIP) document, to add additional consultant trips, and to add a time and expense budget to cover the cost for implementation assistance was approved by City Council on June 15, 2009. We anticipate that the new draft of the IFCIP will be submitted to the City the first week of August 2009.)
6. **Aquatics Center** - (Status report provided monthly on first, Regular City Council Meeting)
7. **Vision 2040** - *(The consultant has completed preliminary drafts of the Regional Vision, and CLC and DAC Comprehensive Plans. The Regional Vision is being reviewed by staff, and the consultant is revising the CLC and DAC Comprehensive Plan drafts based on staff comments. When revisions to all three documents are complete, the preliminary drafts will be released for public comment, and public input meetings will follow.)*
8. **Grants/ARRA Status** - (Matrix.)

XI. GENERAL DISCUSSION

1. Mayor

Mayor Pro-tem Archuleta said Councillor Connor and I have been working with City staff on planning a memorial ceremony for September 11th which would be at Apodaca Park on September 11th at 5:00 p.m.

On Tuesday, August 18th, I will be having a District meeting at 6:00 to 8:00 p.m. at Sierra Middle School and this meeting will mainly be about neighborhood watch groups.

I would like to comment on behalf of the Mayor, Council and the community, in expressing our heartfelt condolences to the family members of Mr. Smoot which was the alzheimer patient that went missing and was later found dead in the desert. The family wanted to thank the long list of Police Officers that helped in the search for Mr. Smoot.

2. City Council

Councillor Thomas said I want to thank the Council, staff and the community in the Fairbanks area for their participation in our meeting last week and I think everyone made a commitment to move

forward and try to find a resolution concerning the issues for that area.

There have been many concerns regarding the use of cell phones while driving and I have several people working on that issue.

Councillor Jones said I want to commend Mike Johnson on how good things are going on Del Rey.

Everyone is very pleased with the way things are going at the East Mesa Pool and we need to be able to solve our demand for more lifeguards for next year.

I would like to compliment the Police Department on the strong police presence in the Porter and Reynolds area.

We are looking forward to a new multi-generational facility out there and I would appreciate an update on the funding and the construction schedule.

Councillor Small said I would like to thank Mike Johnson for his help regarding the mosquito problems we've had in District 4 and for the updates regarding the El Molino project.

Councillor Connor said I sent an email to Eric Martin requesting an update on the bathrooms at Apodaca Park. I want to know why they are still fenced off?

Eric Martin, Project Management Administrator said we were going to do the designing and utility work in house but due to staffing restraints, we had to contract out those services. The building itself is completed but the inside work is still being worked on but we expect it to be completed by the end of August.

Councillor Connor said I heard that the library roof is leaking again; is this the roof that we just replaced?

Eric Martin said the terrace area is the area that was leaking and that area has always been problematic. We are in the process of enclosing that entire area and there was some construction work being done at the time the thunderstorm hit. The sealant that the contractor used didn't hold up which is why it leaked inside that area of the library. The contractor is responsible for the damages and we are working with him on this issue.

Councillor Connor said there were discussions regarding restrooms at the Downtown Mall and there were comments made that they weren't suitable but I recently used them and I think they are very suitable for people to use.

The kitchen is now open at the Mesilla Park Recreation Center. I have had several complaints that the center doesn't have a cosey atmosphere and it's not a place for seniors to enjoy themselves.

Terrence Moore, City Manager said we would be happy to check into adding sofas and other furnishings for this center that will help to cater to our Seniors.

Councillor Connor said I would like to thank Robert Garza for clarifying the process of setting the agenda.

Our strategic planning meeting was held at the Farm and Ranch Museum and there were complaints that this meeting wasn't held on City property and that there isn't any transit services available to this area. It was like we positioned ourselves in an area that is difficult for citizens to get to in order to be able to listen to these discussions. We have plenty of facilities in town that we could use to hold these meetings and the public would be able to attend them. I would recommend that we use one of our facilities for future meetings.

Regarding our City Inspectors, I think we should get them trained to be multi-disciplined inspectors so each inspector would be able to do multiple inspections, like electrical and structural inspections. We aren't very inspector friendly and there are always a lot of complaints concerning inspections.

Robert Garza said we have had discussions regarding that issue and the challenge will be with the regulation licensing and the legislative part of it. We need to get the legislature to allow multi-discipline inspection certification.

Councillor Silva said I want to express my condolences to the family of Clayton Iserman. Mr. Iserman passed away this past week and he was a P & Z Commissioner that lived in this community for many years.

The Codes Department did a great job in cleaning up District 1.

Mayor Pro-tem Archuleta asked is it possible that we could have a problem with mold at the library?

Terrence Moore said at this point, it doesn't seem to be an issue.

Lori Grumet, Public Services Director said there is always a potential for mold when you have old books but as soon as we were aware of the recent leakage, the Facility Department gave us some fungicides to use so we could eliminate the possibility of mold blooms. It doesn't take a water leak to have a mold outbreak so we are always looking out for any signs of mold.

3. City Manager

A. Status of Citywide Swimming Pool Enhancement Program.

Terrence Moore said Eric Martin has already given you an update on our pools.

B. Update Regarding Downtown Revitalization Activities.

David Weir, Community Development Director gave a presentation and said regarding the Mainstreet design and reconstruction; staff is working with the property owners along Lucero Street for the designing of the Cul-de-sac in that area.

In regards to the Farmers Market, there will be a work session next Monday to discuss updating the master plan and the phasing of that project. Staff has been working with the Farmers Market vendors regarding their temporary location while the construction is taking place in that area.

Regarding the Downtown Revitalization activities, we are currently working on the design of the La Placita. The tile walkway has been designed and the materials have been purchased.

Regarding the Museum of Nature and Science, there has been an architect consultant hired to go forward with the design of that building.

Regarding the Las Cruces Downtown Partnership, they are in the process of planning their Mainstreet Salsa event which will be held on August 29th.

Regarding the City's buildings, there is a request for interest and a request for proposal that are being developed for the marketing of these properties.

Mayor Pro-tem Archuleta said I received two phone calls on Saturday regarding the dogs at the Farmers Market, they are asking that we not allow dogs during the market because they urinate everywhere.

David Weir said we will get with the Codes Department regarding that issue.

Councillor Silva asked do we know when we are going to begin the demolition on the Downtown?

David Weir said I was informed that it will begin on September 7th.

C. Other Items - Information Only

Meeting Adjourned at 3:20 p.m.