City Council
of the
City of Las Cruces

Regular Meeting

August 17, 2009
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:

Mayor Ken Miyagishima
Councillor Miguel Silva, District 1
Councillor Dolores Connor, District 2
Councillor Dolores C. Archuleta, District 3
Councillor Nathan Small, District 4
Councillor Gil Jones, District 5
Councillor Sharon Thomas, District 6

STAFF:

Terrence Moore, City Manager
Fermin Rubio, City Attorney
Esther Martinez, City Clerk

I. OPENING CEREMONIES

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

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and Laura Loos presented the Pet of the Week.

Mayor Miyagishima presented the Mayor's Distinguished Service Award to the Ikard family for establishing the initial endowment that resulted in the creation of the Ikard Cancer Treatment Center.

Councillor Jones presented a Medal of Appreciation to WWII Veteran Carey G. May.

Councillor Jones presented a Proclamation to Denise Nemiroff and Lourdes Mendez Rodriguez and declared August 22nd thru August 29, 2009 as Relay for Life Week in Las Cruces.

Esther Martinez, City Clerk gave a presentation regarding clarification of the Municipal Election and said after the resolution calling for the November election was approved, my office was notified by the Chief Deputy County Clerk Mario Jimenez that there were precinct omissions in that resolution. In District 2, Precinct 104 was split to create Precinct 114; in District 4, Precinct 40 was split to

create Precinct 108; in District 5, Precinct 62 was split to create Precinct 109; in District 6, Precinct 102 was split to create Precinct 112 and Precinct 103 was split to create Precinct 113 but of all of them will still be in the same districts and they will be voting in the same location. As per the State Statute, the Municipal Clerk, which is myself, is authorized to amend the resolution to include any corrections or omissions but I wanted to make this presentation to keep Council and the public informed of these changes. I will be bringing another resolution forward to Council that will amend the previous resolution.

Mayor Miyagishima read a closed meeting statement and said the Las Cruces City Council met in a closed session at 11:07 a.m. on August 7, 2009. The following were in attendance: Mayor Miyagishima, Councillor Silva, Councillor Connor, Councillor Archuleta, Councillor Small, Councillor Jones, Councillor Thomas (left at 2:07 p.m.) and City Manager Terrence Moore. The meeting adjourned at 2:20 p.m. and only the limited items stated on the posted notice were discussed.

Mayor Miyagishima read a closed meeting statement and said the Las Cruces City Council met in a closed session at 11:30 a.m. on August 10, 2009. The following members were in attendance: Mayor Miyagishima, 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, Assistant City Attorney Harry (Pete) Connelly, Sr. Assistant City Attorney Marcy Driggers, Utilities Director Jorge Garcia, Public Works Director Mike Johnson and Community Development Director David Weir. The meeting adjourned at 1:00 p.m. and only the limited items stated on the posted notice were discussed.

Mayor Miyagishima read a closed meeting statement and said the Las Cruces City Council met in a closed session at 11:00 a.m. on August 17, 2009. The following members were in attendance: Mayor Miyagishima, 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, Assistant City Attorney Harry (Pete) Connelly, Utilities Director Jorge Garcia, Public Works Director Mike Johnson and Community Development Director David Weir. The meeting adjourned at 12:15 p.m. and only the limited items stated on the posted notice were discussed.

II. <u>CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27(E)(2).</u> *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?

Councillor Connor said regarding Item 23, my husband works for El Paso Electric and I will be abstaining on that item.

III. PUBLIC PARTICIPATION

None given.

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 Items 2, 4, 6, 7, 8, 9 and 17 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 Miyagishima called for the roll on the Motion to accept the Agenda as Amended and it was Unanimously APPROVED.

V. CITY COUNCIL MINUTES

*(1) Regular Meeting of July 20, 2009

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

*(3) Resolution No. 10-054: A Resolution Authorizing a Change Order to Increase the Contract with First In Inc. Of Phoenix, Arizona, in the Amount of $7,798.00 and to Establish a Contingency Fund of $5,322.00 and to Amend the Fiscal Year 09/10 Budget.

*(5) Resolution No. 10-056: A Resolution Approving a Home Investment Partnerships Program (HOME) Loan Agreement Between the City of Las Cruces and Tierra Del Sol Housing Corporation and Alta Tierra Apartments Limited Partnership for the Rehabilitation of Alta Tierra Apartments, a Federal Low Income Housing Tax Credit Project. The Resolution Grants an Exception to the City's Multi-Family Rental Loan Policy for the Project. The Resolution Further Approves the Lender's Consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement (LURA) for the Project.

*(10) Resolution No. 10-061: A Resolution Authorizing the City of Las Cruces to Accept a Nutrition Service Incentive Program (NSIP) Agreement for Cash-In-Lieu of Commodities From the North Central New Mexico Economic Development District Non-Metro Area Agency on Aging for Fiscal Year 2009/2010 in the Amount of $84,347.

*(11) Resolution No. 10-062: A Resolution Authorizing the City of Las Cruces to Accept a Contract in the Amount of $578,337 From the North Central New Mexico Economic Development District Non-Metro Area Agency on Aging for Fiscal Year 2009-2010 to Provide Congregate and Home Delivered Meals, Assisted Senior Transportation, Health Promotion, In-Home Respite, Caregiver Support, Grandparents Raising Grandchildren Support Services and to Adjust the Fiscal Year 2009-2010 City Budget.

*(12) Resolution No. 10-063: A Resolution Authorizing the City of Las Cruces to Accept Grant Awards From a Legislative Appropriation Totaling $358,300 For Fiscal Year 2009/2010 From the State of New Mexico Aging and Long-Term Services Department for Capital Outlay Funds Directed for the Purchase of Equipment/Furnishings, Vehicles, and Improvements to the City of Las Cruces Senior Centers and to Adjust the Fiscal Year 2009/2010 City Budget.

*(13) Resolution No. 10-064: A Resolution Authorizing a Memorandum of Agreement Between the Las Cruces Public Schools and the Kennedy Center Partners in Education Which Includes the Las Cruces Museum System.

*(14) Resolution No. 10-065: A Resolution Authorizing Change Order Number Three to the Contract Between the City of Las Cruces and G. Sandoval Construction, Inc., For the Construction of Burn Lake Improvements - Phase One, as Approved by City Council Under Resolution Number 07-08-291; Authorizing an Increase in the Contract Amount by $7,290.00; Plus, New Mexico Gross Receipts Tax of $542.19; For, a Total Change Order Authorization of $7,832.19.

*(15) Resolution No. 08-09-554: A Resolution Awarding a Contract for the Construction

of the City Bond Project - Landscaping, Project Number 08-09-554, to Sandoval Construction, Inc., In the Amount of $488,898.77; Plus, New Mexico Gross Receipts Tax in the Amount of $36,361.18; and Authorizing a City Manager Contingency in the Amount of $48,889.88; for, a Total Authorization of $574,149.83; and, Amending the FY09/10 Budget.

*(16) Resolution No. 09-10-347: A Resolution for the Renewal of Annual Software Support and Licensing Updates, Disaster Recovery, GUI Support and OSDBA Support Agreements Awarded to Tyler Technologies, Inc., MUNIS Division of Falmouth, ME in the Total Amount of $168,851.02.

VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

*(2) Resolution No. 10-053: A Resolution Repealing Sections 100, 206, 208, 209, 210, 212, 306, 312, 317.9, 317.11, 317.12, 407, 408, 409, 411, 413, 418, 504, 505, 506, 507, 508, 509, 510, 512, 514, 521, 603, 603.A, 612, 613, 614, 615, 616, 617, 701, 705, 710, 907, 909, 1102, 1103, 1104, 1200, 1300 and Enacting Sections 100, 206, 208, 209, 210, 212, 306, 312, 317.9, 317.11, 317.12, 407, 408, 409, 411, 413, 418, 504, 506, 507, 508, 509, 510, 512, 514, 521, 524, 603, 603.A, 612, 613, 614, 615, 616, 617, 701, 705, 710, 907, 909, 1102, 103, 1104, 1200, 1300 of the Manual of Personnel Policies.

Councillor Small Moved to Adopt Resolution No. 10-053 and Councillor Archuleta Seconded the motion.

Councillor Connor asked has this been reviewed by any department heads or any other personnel?

Andre Moquin, HR Director said yes, it was provided to all the executive staff, blue collar and the Police Union for their review.

Councillor Connor asked did they all agree with the changes?

Andre Moquin said the changes weren't negotiated but we did listen to their comments.

Councillor Connor asked what was the time frame given to staff to respond?

Andre Moquin said I believe they had two weeks.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-053 and it was Unanimously APPROVED. 7-0

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*(4) Resolution No. 10-055: A Resolution Authorizing the City Manager to Submit a Grant Application to the New Mexico Economic Development Department. The Application Would Request Up to $200,000.00 From the New Mexico Mainstreet Program Special Appropriation for FY10 to Be Used to Fund a Master Plan of the Mainstreet Downtown Area.

Councillor Silva Moved to Adopt Resolution No. 10-055 and Councillor Thomas Seconded the motion.

William Slettom, Downtown Development Coordinator gave a presentation and said this would be used to fund the update for our Masterplan to include the changes that have been made to the Downtown area.

Councillor Silva asked is this grant available on an annual basis?

William Slettom said yes, but it depends upon what the legislature appropriates to it.

Councillor Silva asked do you think we could use this type of funding in the future for things like shade structures?

William Slettom said we have used this grant before for the Rio Grande Theater and the Branigan Cultural Center. We could include this in the scope of work for the 3-D model and we could also use the Farmers Market as a strategic site in the Downtown.

Councillor Silva asked could we use it for the Branigan Library?

William Slettom said we can pretty much use it for anything within the central area.

Councillor Thomas asked if we get the grant, you will be putting out an RFP for this, it's not for in-house work, correct?

William Slettom said that is correct.

Councillor Thomas asked when are they going to announce who gets the grant?

William Slettom said we have to have it submitted by Thursday and then they said they would notify us on who is invited to give oral presentations the following week. They will be announcing who gets the grants after these presentations are given.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-055 and it was Unanimously APPROVED. 7-0

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*(6) Resolution No. 10-057: A Resolution Adopting the City of Las Cruces Affordable Housing Strategies Plan.

Councillor Archuleta Moved to Adopt Resolution No. 10-057 and Councillor Thomas Seconded the motion.

David Dollahon, Neighborhood Services Administrator gave a presentation and said the City allocated $100,000 for contracted services for the development of the Affordable Housing Policy Plan which was renamed as the Affordable Housing Strategy Plan.

Councillor Connor asked can you elaborate on the land bank issue?

David Dollahon said a land bank is land that is either owned or donated to a non-profit, a City organization or a government entity and is to be used for the development of affordable housing. The land is what creates the equity in the home.

Councillor Connor said the board members are supporting this document as it is presented to us, correct?

David Dollahon said that is correct.

Councillor Connor said this was presented to us in a very short amount of time and I would prefer that we have more time to review this in the future.

Councillor Silva asked has there been an inventory taken of the vacant buildings in the Downtown area?

David Dollahon said there was a full City inventory done in 2008.

Isaac Chavez, Realtor's Association said I was shocked to see an Ad-Hoc Committee report put on

the consent agenda. The Realtors are in favor of the land bank concept and we think it can be very beneficial to the community.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-057 and it was Unanimously APPROVED. 7-0

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*(7) Resolution No. 10-058: A Resolution Adopting the City of Las Cruces Disadvantaged Business Enterprise (DBE) Program. The Resolution Further Designates the Disadvantaged Business Enterprise Liaison Officer (DBELO) for the City of Las Cruces and Certain Authorities Under the Program.

Councillor Archuleta Moved to Adopt Resolution No. 10-058 and Councillor Silva Seconded the motion.

David Dollahon, Neighborhood Services Administrator said the DBE Program is federally mandated for most of our federally funded Department of Transportation programs. In the State of New Mexico, all DBE's are certified by the State Department of Transportation so we will be accessing their list and due to the conflict of interest requirements, my section has been designated as the DBE liaison officer.

Councillor Silva said this gives us the opportunity to create a program within the City that can help many disadvantaged businesses. I would be happy to work with Mr. Dollahon in creating some kind of Ad-Hoc Committee and develop policies and procedures for this program.

David Dollahon said this is the first step and we are reallocating some of my staff to help the Department of Transportation with the reporting for this project. We should just work on meeting our federal requirements right now and then we can look at other opportunities as we go forward.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-058 and it was Unanimously APPROVED. 7-0

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*(8) Resolution No. 10-059: A Resolution Accepting State Funding For And Authorizing the City to Serve as the Fiscal Agent on Behalf of Jardin De Los Niños. The

Resolution Authorizes the City Manager to Sign the Necessary Agreements on the City's Behalf. The Resolution Amends the City's Adopted FY2010 Budget to Reflect the Actions Called for Under This Resolution.

Councillor Connor Moved to Adopt Resolution No. 10-059 and Councillor Thomas Seconded the motion.

David Dollahon, Neighborhood Services Administrator gave a presentation and said The Governor recently announced that there is $30,000 of emergency funding going to Jardin De Los Niños. This funding is for the operation costs and the City will have a main agreement with the State for us to be the fiscal agent and ensure compliance with the State's requirements. I want to let you know that we do have a substitution for this item; the original agreement had the City Manager as the authorizing signature and it has been changed to have the Mayor as the authorizing signature.

Councillor Archuleta Moved to Amend Resolution No. 10-059 to include the substitute resolution that has the Mayor as the authorizing signature for the agreement and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 10-059 to include the substitute resolution that has the Mayor as the authorizing signature for the agreement and it was Unanimously APPROVED. 7-0

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-059 as Amended and it was Unanimously APPROVED. 7-0

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*(9) Resolution No. 10-060: A Resolution Approving a Memorandum of Understanding (MOU) for Trail Development Between the City of Las Cruces and Elephant Butte Irrigation District. The Resolution Further Authorizes the Mayor to Sign the MOU on the City's Behalf.

Councillor Thomas Moved to Adopt Resolution No. 10-060 and Councillor Archuleta Seconded the motion.

Andy Hume, MPO Associate Planner gave a presentation and said this concept has been going on for about twenty years and we have finally created an MOU for this project. This is a two step process; first is the MOU which is before you today and then we need to apply for a right of use permit through the EBID.

Councillor Connor said from what I read, there won't be any cost associated with the creation of the trail system which is a great benefit to this community.

Fermin Rubio, City Attorney said this needs to stay safe and free from negligent because we would still be liable if anyone gets hurt on this trail.

Councillor Silva asked how many miles of trail space will this have?

Andy Hume said it's about forty miles of space in the City and there is about 300 miles system wide.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-060 and it was Unanimously APPROVED. 7-0

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*(17) 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.

Councillor Connor Moved to Adopt Council Bill No. 10-003; Ordinance No. 2532 and Councillor Archuleta Seconded the motion.

Councillor Archuleta said I pulled this off of the consent agenda because I wanted the contractors to see that we are doing what we said we were going to do.

Councillor Connor said this is different from what we discussed with the contractors during our work session.

Councillor Archuleta said on page 395, it talks about $25,000 or more and I thought it was going to be $50,000 or more.

Bob Telles, Purchasing Manager said that only pertained to public notices, $25,000 is the threshold for the issuance of formal public notices.

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-003; Ordinance No. 2532 and it was Unanimously APPROVED. 7-0

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(18) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 10-066 A PUBLIC HEARING MUST BE HELD.**

Esther Martinez, City Clerk said we need to place a phone call before we have the public hearing.

Fermin Rubio, City Attorney said the license broker wasn't able to be here but will be available by phone to answer questions. I have also given you a letter as part of the public participation.

Jerry Hamm, Authorized Representative for the Applicant attended the meeting via telephone.

Mayor Miyagishima said this item is now open for a public hearing.

Fermin Rubio said the letter I submitted was given to the Alcohol and Gaming Department and my office. This letter was written by the parents of a young gentleman who had an unfortunate occurrence at this location. After reading the letter, it appears that these individuals are not protesting the transfer of this liquor license.

Mayor Miyagishima said the letter was submitted by Steve and Karen Judd and it states that their son, Steven Judd died of alcohol poisoning while celebrating his 21st birthday at Hurricane Alley. They are in support of the change in ownership and management of that bar as long as it is in compliance with the consent decree.

Jerry Hamm said the selling of this establishment with the liquor license is in compliance with the consent decree.

Mayor Miyagishima asked is there anyone who wants to speak against this item?

Richard Fearry, Mesilla Valley DWI Resource Center said on page 3 of the letter, it states, "it may be appropriate in making a decision on this application to take into consideration that there is a motion pending in District Court in the wrongful death lawsuit for our son. We are seeking to ensure that the current proposed transfer is a ligament transfer to a purchaser that complies with the restrictions placed on the licensee." I don't know if it would be appropriate for this body to approve this transaction at this time.

Fermin Rubio said only the transfer of the license is before this Council and at this point, I don't think there has been any proof that this transfer would be detrimental to the community. There are issues with the previous owners and the Judds but that doesn't affect this action.

Resolution No. 10-066: A Resolution Approving the Transfer of Ownership of State Liquor License No. 2787 From Andrews, Ragle & Wamel, Inc. D/B/A Hurricane Alley Pub To Four Daughters Enterprises, Inc. D/B/A Hurricane Alley Pub, Located at 1490-A East Missouri Avenue, Las Cruces, New Mexico.

Councillor Archuleta Moved to Adopt Resolution No. 10-066 and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-066 and it was Unanimously APPROVED. 7-0

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(19) Resolution No. 10-067: A Resolution Allowing Transit Section Staff to Accept a Grant Awarded by the Federal Transit Administration for Capital Improvement Funds Appropriated by Congress in the Amount of $1,713,911 to the City of Las Cruces Through the "American Recovery and Reinvestment Act, 2009" and to Adjust the City FY2010 Budget Accordingly.

Councillor Connor Moved to Adopt Resolution No. 10-067 and Councillor Archuleta Seconded the motion.

Michael Bartholomew, Transit Administrator gave a presentation and said there is no match required for these stimulus funds. There will be a separate account set up in Munis to track these funds for reporting purposes.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-067 and it was Unanimously APPROVED. 7-0

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(20) Resolution No. 10-068: A Resolution to Adjust the Adopted Fiscal Year 2010 Budget Allowing for Carryover Budget of Operating and Capital Costs From Fiscal Year 2009 for the City of Las Cruces, New Mexico.

Councillor Connor Moved to Adopt Resolution No. 10-068 and Councillor Silva Seconded the motion.

Dick Gebhart, Budget Director gave a presentation and said this a routine budget adjustment that we do around this time every year.

Councillor Silva asked what is the total amount of the revenues and expenditures?

Dick Gebhart said it is about $4.9 million decrease in revenues and about $2.3 million increase in expenditures. I do have an amendment to offer; on page 1065 of the packet, there is a fund summary that has a mistake in it. It has an appropriation for the Veterans Wall that shouldn't be there. I would ask that there be an amendment to remove it and recalculate the totals.

Councillor Silva asked are we removing this because the money was already spent?

Dick Gebhart said no, it is simply an administrative error.

Councillor Connor Moved to Amend Resolution No. 10-068 to remove the Veterans Wall appropriation and recalculate the totals for Exhibit A and Councillor Jones Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 10-068 to remove the Veterans Wall appropriation and recalculate the totals for Exhibit A and it was Unanimously APPROVED. 7-0

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-068 as Amended and it was Unanimously APPROVED. 7-0

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(21) Resolution No. 10-069: A Resolution Authorizing Submission of an Application From the City of Las Cruces to the New Mexico Department of Finance and

Administration, Local Government Division, Notice of Funding Availability and Funding Application Program for the Purpose of Making the Las Cruces Downtown and Adjacent Streets ADA Compliant. Funds Are Provided to the State of New Mexico Through the American Recovery and Reinvestment Act (ARRA). Further, the City Council Affirms the Approval to Apply as Directed by the City Manager to Meet Grant Deadlines.

Councillor Connor Moved to Adopt Resolution No. 10-069 and Councillor Jones Seconded the motion.

Auguie Henry, Grant Writer said this is for stimulus money that can only be used for Public Works projects. We are going to use this funding for ADA compliance in the Downtown area.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-069 and it was Unanimously APPROVED. 7-0

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(22) Resolution No. 08-09-602: A Resolution Authorizing Approval of Indefinite Quantity, Indefinite Cost, Price Agreements for Furnishings to Contract Associates of Albuquerque, NM, Business Environments of Albuquerque, NM, and Government & Education Furnishings, LLC, of Rio Rancho, NM, for a Five (5) Year Term, Renewable Annually; and Approving the Rankings of the Selected Firms From Which Project Assignments Will be Based for the New City Hall, Regional Recreation and Aquatic Center, and Convention Center Projects; Subject to Approved Budget Appropriations.

Councillor Archuleta Moved to Adopt Resolution No. 08-09-602 and Councillor Thomas Seconded the motion.

Eric Martin, Facilities Project Management Administrator gave a presentation and said this is an opportunity to have green furnishings and obtain LEED points for some of our City projects. There was a total of seven vendors that submitted RFPs and we recommend awarding this contract to the top three vendors which are Contract Associates of Albuquerque, NM, Business Environments of Albuquerque, NM, and Government & Education Furnishings, LLC, of Rio Rancho, NM. They have assured us that they will be using local companies for the installation and hook ups for these furnishings.

Bob Telles, Purchasing Manager said the New Mexico Corrections Industry Division has a manufacturing plant that provides furnishings for government agencies that are offered at a non-competitive basis. I have an appointment this week with the contractor to discuss obtaining seating based on the needs of the new City Hall to see if it would be beneficial to us to use the manufacturing plant.

Councillor Connor asked aren't there any vendors of this type within the City?

Eric Martin said I believe there was a vendor but through the Selection Advisory Committee process..(interrupted)

Councillor Connor said we didn't get the names of the vendors who applied but didn't make the cut, in our packet.

Bob Telles said there was one company from Las Cruces which was the Government and Educational Furnishings Company, they have an office here in Las Cruces but they are based out of Deming. We did advertise this but there was a lack of response from Las Cruces vendors.

Councillor Connor asked are we going to have brand-new furniture for everyone at the new City Hall?

Eric Martin said our intent is to provide all new furnishing throughout the new City Hall. A lot of our old furnishings aren't ergonomic and we will primarily have workstations throughout the departments.

Councillor Connor said I understand that but for people like me, we don't need a new desk.

Terrence Moore said we will be transferring some of our newer furniture that is ergonomically correct to the new City Hall.

Eric Martin said we will also be reusing some of the old furnishings in other City offices.

Councillor Silva asked is the one million dollar budget only for furnishing the new City Hall or will it cover the Aquatic Center and the Convention Center?

Eric Martin said it is only for the new City Hall.

Isaac Chavez, Chamber of Commerce Member said I would suggest that you send the RFP notifications to the Chamber because most of its members are business owners.

Maria Griego Rabe, Contract Associates Owner said we are one of the businesses selected for this contract and we have served the entire State of New Mexico for twenty one years. We have already

contacted three subcontractors here in Las Cruces to work with us on the new City Hall project.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 08-09-602 and it was APPROVED. 6-1 Councillor Silva, Councillor Small, Councillor Jones, Councillor Thomas, Councillor Archuleta and Mayor Miyagishima voted Aye. Councillor Connor voted Nay.

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(23) 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.

Councillor Archuleta Moved to Adopt Council Bill No. 09-065; Ordinance No. 2528 and Councillor Thomas Seconded the motion.

Robert Garza, Assistant City Manager gave a presentation and said the term of this agreement is for an initial five years with performance based extensions for two subsequent five year terms. There is a proposed joint committee between the City and El Paso Electric that would work on an ongoing basis to deal with planning issues, technology changes, plant expansions and a variety of other issues.

Mayor Miyagishima said I have already spoken with Mr. Stevens regarding tabling this in order to give us more time to investigate the possibility of a Purchase Power Agreement.

David Stevens, CEO of El Paso Electric said we remain committed to working with the City regarding the possibility of a Purchase Power Agreement; however, we don't really see a tie between the Franchise Agreement and the Purchase Power Agreement. It is up to the Council whether this is passed, amended or tabled but we can continue to operate under the historic Franchise Agreement.

Councillor Thomas said I was a member of the Negotiating Committee and we did discuss the possibility of a Purchase Power Agreement and I spoke with several people to try to figure out how we could make that work under the laws of New Mexico. That issue will be going before the PRC

soon and I think we should take some time to see what the outcome of that is before moving forward with our Franchise Agreement.

Councillor Silva said why can we only do a month to month for two years?

Robert Garza said it is staff's opinion that it can be for up to two years and that is based on a New Mexico Supreme Court ruling regarding the Moongate issue.

Councillor Silva asked will El Paso Electric trim trees on private property to protect their lines?

Clay Doyle, El Paso Electric said yes, we will still trim trees at no cost that are interfering with our lines on private or public property.

David Stevens said we respect the City staff's opinion; however, we think it can be for a longer period of time. If we table this Franchise Agreement for some time then we will have to consider that there may be changes in our economy which is why we don't see the connection with this agreement and the Purchase Power Agreement.

Mayor Miyagishima said I think it would be best to try to work on both of these agreements parallel to each other.

Councillor Small said if an agreement isn't signed today then you will go back and base negotiations on the previous agreement opposed to the document that was drawn up for today.

David Stevens said that is correct.

Councillor Jones said there are some interesting provisions in there regarding the calculation of the rate. El Paso Electric uses natural gas to create electricity so when natural gas rates go up so does the electricity rate. Under the proposed mechanism, the amount per unit of electricity purchased by the consumer stays the same which I think would be very good for our constituents.

Ron Camunez, Member of the Public said I served on the committee for this Franchise Agreement and we worked hard to try to find a solution that would benefit both sides. I have a problem with you tabling this after all the work we've put into it. I think that delaying this would hurt the residents of Las Cruces in the long run.

Mayor Miyagishima said I appreciate all the work that the committee did but we have to keep in mind that this is a very important issue and it would be irresponsible not to take time to investigate it. This Franchise Agreement is our only leverage in this situation.

Dan Townsend, Member of the Public gave a presentation and said I served on the committee as well and this agreement is time sensitive. According to this report from El Paso Electric, as of 2013 and forward, they go into the negative regarding their ability to supply the demand for electrical energy.

We would be losing valuable time on this issue if you choose to table this item.

Councillor Jones asked can you explain about what the courts decided on the Moongate issue?

Richard Cole, Keller & McCloud said the water company argued that they didn't need a Franchise Agreement to continue to provide service within the City of Las Cruces but the Court of Appeals disagreed with that and said you do need a Franchise Agreement to provide utility service within the City. They stated that before the PRC can approve a service area, you must show that you have authorization from the municipality to provide service in that area. Once a Franchise Agreement runs its term, it remains an implied contract on a month to month basis until the parties negotiate a new agreement, cancel the agreement or until 25 years after the agreement first went into effect.

Senator Steve Fischmann said there is no relationship between a Franchise Agreement and getting new power capacity or operating any other part of the utility. I believe we should have a Franchise Agreement but I don't think what we have now quite gets us there. I do think it is leverage for things like the Purchase Power Agreement. I agree with stepping back and taking about six months to see if you can come to an agreement and not just rush into it.

Bob Hearn, Member of the Public said our community is growing and there are more businesses which all need electricity. We need to be able to meet the demands for power and we need to start working hard on energy conservation. There will be a lot of changes within the next five years; I recommend negotiating this agreement again after that period of time.

Dan Jett, Member of the Public said I am opposed to you adopting this Franchise Agreement as it is currently written because it is nothing more than a tax increase for the people who use the electricity.

Councillor Small said electricity is essential for all of us so it makes sense to take time in working on these types of issues.

Councillor Small Moved to Table Council Bill No. 09-065; Ordinance No. 2528 indefinitely and Councillor Archuleta Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Table Council Bill No. 09-065; Ordinance No. 2528 indefinitely and it was APPROVED. 4-2-1 Councillor Small, Councillor Thomas, Councillor Archuleta and Mayor Miyagishima voted Aye. Councillor Silva and Councillor Jones voted Nay. Councillor Connor abstained.

VIII. BOARD APPOINTMENTS

Mayor Miyagishima appointed Anthony Levatino to the Airport Advisory Board.

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

Mayor Miyagishima called for the roll on the Motion to Approve the Board Appointment and it was Unanimously APPROVED. 7-0

Mayor Miyagishima appointed Arthur E. Jiron and Albert D. Vizcarra to the Housing Authority.

IX. REVIEW OF PROPOSED ORDINANCE(S)

None given.

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 recommendations 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 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.)* Options/Cost/Shade for Farmers Market.
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 consultants have 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.)*

Christine Logan, Economic Development Administrator gave a presentation regarding the Downtown (4) options for the Farmers Market. The two viable options are to move it to the south side of the Downtown Mall and have the vendors bring their own shades or we can use the parking lot by El Paso Electric and set up two large shade structures for the vendors.

Councillor Archuleta said we would have to consider where we would get the $140,000 for the two large tents if we decided to go with the parking lot idea. This would also reduce the use of this parking lot and the vendors that cook food won't be able to set up under the tents. We will also have issues with the homeless trying to use these tents for shelter. Is the Council going to decide what to do with this or is it going to be up to the vendors?

Mayor Miyagishima said this presentation is for informational purposes only. There won't be any action taken on this issue, today.

Councillor Jones said by doing the math, we would need to collect $13 each week from each of the vendors in order to be able to pay for the two tents.

Christine Logan said there would be an issue regarding the homeless using this area so we would have to fence this area in to keep them out. There is funding available for the Mainstreet project which is what we would use for the tents and for the cost sharing, it would cost about $16.00 per week per vendor.

Robert Garza said if we do move the Farmers Market to the parking lot then that would give us the opportunity to do the construction work on both the north and south sides of the Downtown area which would allow us to complete the Downtown project in about two years instead of the expected three years.

Councillor Connor asked what is the current rental for a vendor's space?

Christine Logan said currently, the vendor's pay $2.00 per week for a 5 x10 spot.

Councillor Connor asked how many vendors do we currently have?

Christine Logan said there are 240 vendors with an assigned spot.

Councillor Silva said I think it would be a real plus to move the Farmers Market to the parking lot so we can finish the Downtown project a lot faster.

Sylvia Hendrickson, Vendor said I don't want to move the Farmers Market to the parking lot because it isn't a very good parking lot and I don't think it is safe.

Sandra Lance, Vendor said I've been a vendor at the Farmers Market for the past seventeen years and I can see advantages to both areas but we need to make a decision soon because we are moving in eleven days.

Sandra Clover, Vendor said I am in favor of moving the Farmers Market to the parking lot with the tents because I think it would better serve the customers and the vendors. I do think the parking lot will need to be re-paved and have some repairs done to it before the tents are put up, in order for it to be a safe area. We do need to consider our customer's safety because most of the parking is across the street and they will have to cross through traffic to get to the Market.

Ben Domer, Vender said I agree with moving the Market to the parking lot because it will provide shade for everyone and the vendors won't have to worry about setting up tents.

Councillor Connor said this parking lot is used a lot by parents dropping off their kids for school; what will happen on Wednesday morning when the Market is there?

Christine Logan said this parking lot is usually full on the weekdays so that will be an issue that we will have to work out.

Mayor Miyagishima said I would like for us to look into purchasing tents instead of renting them.

Terrence Moore said we can have a special meeting on August 24th, after the regular meeting to discuss our options on this issue.

Christine Logan said August 24th will be too late for us to order a tent, if we decide to go in that direction.

Terrence Moore said we will begin working on this tomorrow and see what options we can come up with regarding this situation.

XI. GENERAL DISCUSSION

1. Mayor

Mayor Miyagishima passed.

2. City Council

Councillor Archuleta said there will be a District 3 meeting tomorrow at 6:00 p.m. at Sierra Middle School.

I serve on the Utilities Board and at our last meeting, one of the Commissioners made a comment regarding the traffic and construction on Telshor and I wanted to know why some of this work couldn't be done at night. At the meeting, Jorge Garcia explained that, that wasn't part of the prevue of the Utilities Board and then Robert Garza got up and explained to the board why the work couldn't be done at night which satisfied the Commissioner. I have asked Mike Johnson to give us this explanation at this time so everyone will understand why we aren't doing this work at night.

Mike Johnson, Public Works Director gave a presentation and said 65% of the funding came from the Department of Transportation as part of Governor Richardson's Improvement Program Phase II Project so they had an input in how we bid the project and some of the details of the projects. One of the terms for being granted this funding was that the project had to be ready to start so we had to begin construction as soon as possible on this project. We began phase one of this project on July 13th and it is to be completed by November 25th. The project will be stopped at that time and all the lanes will be open. The project will restart on January 4th with 60 working days to complete the project.

Councillor Thomas said people are taking alternate routes to avoid the traffic issues in that area.

Councillor Jones said we had our first joint MPO meeting with El Paso and it was a very interesting meeting. The bus system between here and El Paso will begin on August 31st.

Councillor Small said I want to thank Mike Johnson for working with Dan Soriano in taking care of some street issues. I believe we have the chairman of the Transportation Committee coming to Las Cruces on August 19th at NMSU.

Councillor Connor said I think we need to have a TIDD meeting because we haven't had one since February or March. I was at a Downtown event the other day and I guess we aren't quite in-tune with everyone who should be paying their GRT.

Regarding our IT Department, I know we are going to a Mainframe with our Munis System; will there be some kind of reduction with the IT staff?

Don Bustamante, IT Director said there are no plans for a reduction of IT staff because the transition

from a Mainframe System to a Client Server actually increases the work load.

Councillor Connor said our secretary received a call from a constituent that went to purchase a cell phone and the vendor told her she had to have an ear piece because the City had passed a no cell phone use law. There's nothing we can do about it; that's just business but it is unfortunate.

There have been discussions about the New Mexico Municipal League and our convention is on September 1st thru the 3rd in Albuquerque. I have invited the Executive Director to speak to Council on September 8th and give us a 30 minute presentation regarding the updates from the special session.

Councillor Silva said there was an article in the paper regarding alzheimer patients receiving bracelets and I wanted to know if we were going to be working with anyone to provide individuals with these bracelets?

Mayor Miyagishima said I'm not aware of anything.

Councillor Archuleta said I was invited to join that organization but there hasn't been a meeting called yet.

Councillor Silva said regarding the Transit location at the Amador Hotel, are we still going to purchase some port-a-potties for that location?

Lori Grumet, Public Services Director said part of the grant funding that we will be receiving will go toward a trailer facility that will be plumbed into the existing plumbing at that location. We will have the ability to move this bathroom facility to another location.

Councillor Silva said Mr. Pierson sent an email regarding the lights in the Alameda District and I would appreciate staff following up on it.

On August 20th, the Police Department will be hosting the annual Weed and Seed Back to School event and I believe it starts at 5:00 p.m. at Klein Park.

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3. City Manager

A. Update Regarding Development and Construction of New City Hall.

Brian Denmark, Facilities Director gave a presentation and said the parking deck is noticeable now and the construction is going smoothly. They are working on the bathroom fixtures and tile work and most of the work is completed; they are focusing on the hallway areas now and installing drinking fountains. We will be shutting down all our general tours of the building after this month because of the interior work that needs to be done and they will be turning on and testing the heating and

cooling systems. Staff is seeking a variance from the Planning and Zoning Commission regarding the signage of this building that would allow us to have monumental signs on the property. Council needs to consider if we want to name this building or do we just want to call it the City Hall Building.

Mayor Miyagishima said I would think we would just call it the City of Las Cruces City Hall.

Brian Denmark said okay, that's good enough for us.

B. Update Regarding Development and Construction of New Las Cruces Convention Center.

Terrence Moore introduced Mr. David Hicks from Global Spectrum and said he is being assigned to the City of Las Cruces to operate pre and post construction of the Convention Center.

David Hicks, Global Spectrum said me and my family relocated here a week ago from Indiana and I am looking forward to working with the City on the construction of the Convention Center.

Brian Denmark said we are still working on the subsurface work for this project.

C. Other Items - Information Only.

Meeting Adjourned at 6:57 p.m.