City Council
of the
City of Las Cruces

Regular Meeting

May 16, 2016
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:	**STAFF:**
Mayor Ken Miyagishima	Robert Garza, City Manager
Councillor Kasandra Gandara, District 1	Rusty Babington, City Attorney
Councillor Greg Smith, District 2	Linda Lewis, City Clerk
Councillor Olga Pedroza, District 3	
Councillor Jack Eakman, District 4	
Councillor Gill Sorg, District 5	
Councillor Ceil Levatino, District 6	

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I. OPENING CEREMONIES

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

Jennifer Martinez from PIO presented the Pet of the Week.

Mayor Miyagishima presented a Proclamation to Las Esperanzas and declared Saturday, June 4, 2016, as Zoot Suit Pachanga Day.

Chief Travis Brown introduced the new Fire Chief Eric Enriquez.

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?

There was none.

III. PUBLIC PARTICIPATION

John Hamilton, Member of the Public said I suffer from Parkinson's disease. In 2012, a group of us asked the state to review the scientific nature of linking exposure to pesticides and Parkinson's. Their conclusion was out of 60 reviewed, 35 demonstrated an association between the two. I would like this discussed in a work session. We will be having a discussion at the county on June 1, 2016.

Richard Fagerlund, Member of the Public said the pesticides they are spraying around buildings are not safe and they are doing it wrong.

Lisa Willman, Member of the Public said I would like for the City Council to reconsider taking out the medians on Missouri because they are there for safety. I also hope you reconsider widening Telshor. We're also hosting a bicycle ride on Saturday morning.

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Donna O'Daniel, Member of the Public said I'm the Chairman of the Las Cruces Support Your Local Police Committee. She read a statement.

Dolores Connor, Member of the Public said I'm here to give you an update on the Election Advisory Council. We had 1000 early voters last week. I want to thank you for the City Beat. I also want to say farewell and congratulate Mr. Garza on a job well done.

Vincent Jeffers, Member of the Public said I asked for my medical record and did not receive it. We need someone to audit this.

IV. READ CLOSED MEETING STATEMENT

a. Read May 9, 2016 Closed Meeting Statement into the record.

The Las Cruces City Council met in closed session at 3:42 p.m. on May 9, 2016. The following members were in attendance: Mayor Ken Miyagishima, Councillor Kasandra Gandara, Councillor Greg Z. Smith, Councillor Olga Pedroza, Councillor Jack Eakman, Councillor Gill M. Sorg, Councillor Cecelia H. Levatino, City Manager Robert Garza, City Attorney William R. Babington, Jr., Utilities Director Dr. Jorge Garcia (part of the meeting), Public Works Director/Acting Assistant City Manager of Operations Loretta Reyes, Deputy City Attorney Bob G. Gates, Acting Deputy Director of Community Development Robert Kyle (part of the meeting), and Chief of Police Jaime Montoya (part of the meeting). The meeting adjourned at 5:25 p.m. For the record: The Las Cruces City Council met in closed session and only discussed those limited items as stated in the posted notice (to discuss pending litigation and real property matters).

V. ACCEPTANCE OF AGENDA

Councillor Sorg Moved to Approve the agenda as presented and Councillor Eakman Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the agenda as presented and it was Unanimously Approved. 7-0.

VI. CITY COUNCIL MINUTES

*(1) Regular City Council Meeting of May 2, 2016

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VII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

*(2) Resolution No. 16-216: A Resolution Authorizing the Game Sports Bar & Grill to Continue with the Permitting Process to Allow for the Sale and Consumption of Alcoholic Beverages Within a Restricted and Secured Area During the Las Cruces International Mariachi Student Showcase, an Event to be Held on Main Street on Saturday, June 4, 2016 from 5:00 p.m. to 12:00 a.m.

*(3) Resolution No. 16-217: A Resolution Rescinding the City of Las Cruces 2015 Personnel Manual and Subsequent Amendments in their Entirety.

*(4) Resolution No. 16-218: A Resolution Re-Appointing Members to the New Mexico Municipal Energy Acquisition Authority Board of Directors.

*(5) Resolution No. 16-219: A Resolution Approving Naming Tract A of Downtown Urban Renewal Project N.M.R. -4 Replat No. 2 as "Plaza Place."

*(6) Resolution No. 16-220: A Resolution Authorizing an Assignment of Land Lease for Parcel 37 at the Las Cruces International Airport from Picacho Valley Group, LLC to Raci Managment Company, Inc.

*(7) Resolution No. 16-221: A Resolution Authorizing the City of Las Cruces, on Behalf of the Police Department, to Accept Legislative Appropriation No. 15-0770 in the Amount of $48,000.00, Through the New Mexico Department of Finance & Administration (NMDFA)

to Purchase Body Cameras for Police Officers; to Ratify the City Manager's Signature on the Agreement; and to Amend the City's Adopted FY2016 Budget.

*(8) Resolution No. 15-16-037: A Resolution Awarding a Contract to Center for Public Safety Management of Washington, DC to Conduct the Analysis for the Police and Fire/EMS Services for the City of Las Cruces, in the Amount of $118,500.00, and to Approve the Use of Salary Savings to Complete this Project Currently Unfunded and to Adjust the FY 2016 Budget.

VIII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

(9) Resolution No.16-222: A Resolution Adopting a New Utility Rate Setting Process Recommended for Approval by the Las Cruces Utilities Board of Commissioners.

Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-222 and Councillor Sorg Seconded the motion.

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Councillor Sorg Moved to suspend the rules to discuss items 9, 10, and 11 concurrently and Councillor Eakman Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to suspend the rules to discuss items 9, 10 and 11 concurrently and it was Unanimously Approved. 7-0.

Dr. Jorge Garcia, Utilities Director gave an overhead presentation.

Councillor Pedroza asked does it say City Council will approve or not?

Dr. Jorge Garcia said I didn't mean to imply that we would always approve. You will apply policy direction to the utility board and it would be by ordinance. The procedure has not changed.

Mayor Miyagishima said before the board would improve the raise in rates whereas now it's the City Council.

Councillor Sorg said this is a widely used process in many cities. The RAC didn't like the way we were doing it before and encouraged us to go in this direction.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-222 and it was Unanimously Approved. 7-0

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(10) Resolution No.16-223: A Resolution Repealing Resolution No. 09-170 Establishing an Ad Hoc Board to be Known as The Ratepayer Advisory Committee, and Approving the Appellate Portions of the Utility Rate Making Procedures Previously Approved by the Las Cruces Utilities Board of Commissioners.

Councillor Sorg Moved to Approve Resolution No. 16-223 and Mayor Pro-Tem Smith Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-223 and it was Unanimously Approved. 7-0.

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(11) Resolution No.16-224: A Resolution Approving the Third Amended By-Laws of the Board of Commissioners for the City of Las Cruces Utilities.

Councillor Sorg Moved to Approve Councillor Eakman Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-224 and it was Unanimously Approved. 7-0

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(12) Resolution No.16-225: A Resolution Approving Updates to the Public Safety Development Impact Fees and the Public Safety Development Impact Fee Capital Improvement Plan, with an Effective Date of July 1, 2016.

Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-225 and Councillor Eakman Seconded the motion.

Chief Travis Brown gave an overhead presentation.

Mayor Pro-Tem Smith asked have we heard if this is going to negatively impact anyone?

Chief Travis Brown said we have had close to 30 public meetings and we haven't had much participation by any of the stakeholders.

Councillor Eakman asked what is the effect of demand on new construction?

Chief Travis Brown said that was discussed at great length many times but we were unable to come up with something that could provide that.

Mayor Miyagishima said in 2001 the voters voted to increase gross receipts tax to go into increasing salaries at the police department.

Councillor Levatino asked what was the rationale for not keeping fees uniform?

Chief Travis Brown said there is a higher number of people living in larger homes so in theory they're going to require more service over time and there's more people to serve.

Councillor Levatino asked did you say there was a safety net so developers don't have to pay twice?

Chief Travis Brown said part of the state law says you can't charge new development twice for an improvement so credit is given.

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Councillor Levatino said my preference is to keep the fees where they are for a little longer.

Councillor Pedroza said impact fees used to be a contentious topic. I think the increase is money well spent for safety.

Councillor Sorg asked do other cities use GO Bonds to buy these pieces of infrastructure?

Chief Travis Brown said I can't tell you definitively.

Robert Garza, City Manager said the use of GO Bonds for public safety is not new to our City.

Councillor Sorg asked can affordable housing have fees waived?

Chief Travis Brown said it is an exception but that fee still has to be paid and is generally paid by our CBG funds.

Councillor Sorg has the ICIP approved this impact fee?

Chief Travis Brown said they make a recommendation for approval by City Council.

Mayor Miyagishima asked can the fees be updated every five years?

Chief Travis Brown said the law requires it no more than every five years.

Mayor Miyagishima asked are we at five years right now?

Chief Travis Brown said August 1st is the deadline.

Steve Montanez, Member of the Public said it's my recommendation that further research is done as far as the City's growth rate. How are the fees implemented for multi units?

Chief Travis Brown said multifamily would be addressed based on each dwelling unit and the size of the dwelling unit.

Mayor Miyagishima said this is only applicable to new construction.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-225 and it was Approved. 6-1. Councillor Gandara, Councillor Pedroza, Councillor Eakman, Councillor Sorg, Councillor Smith and Mayor Miyagishima voted aye. Councillor Levatino voted nay.

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(13) Resolution No.16-226: A Resolution Appointing an Interim City Manager.

Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-226 and Councillor Eakman Seconded the motion.

Robert Garza said my last day is Friday, May 27th so we have put together a resolution to appoint Assistant City Manager Daniel Avila as the interim City Manager for a 90 day period to be extended for up to six months.

Councillor Eakman Moved to Amend Resolution No. 16-226 to omit "tenue" from the resolution and Mayor Pro-Tem Smith Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 16-226 to omit "tenue" from the resolution and it was Unanimously Approved. 7-0.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-226 as amended and it was Unanimously Approved. 7-0.

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(14) Resolution No.16-227: A Resolution Awarding Funding to El Caldito Soup Kitchen for the Provision of Public Services for FY 2017 and Authorizing the Assistant City Manager to Execute the Purchased Services Agreement on Behalf of the City of Las Cruces.

Mayor Pro-Tem Smith Moved to Approve Resolution no. 16-227 and Councillor Sorg Seconded the motion.

David Weir, Community Development Director gave an overhead presentation.

Mayor Pro-Tem Smith said the fund is set up to help various organizations and we need to look at how to support them appropriately.

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David Weir said there is a work session scheduled for more information.

Councillor Levatino said my concern is the fairness.

Councillor Sorg said we need to rethink how to use this valuable asset.

Councillor Gandara said I think we need to work together to service the population like we need to.

Gabe Anaya, President of the Board of Directors for El Caldito said thank you for your reconsideration.

Dolores Archuleta, Member of the Public said not a lot of people know about the Telshor Facility Fund so you may want to explain where that money is coming from.

Mayor Miyagishima said we leased the building and got half of $45 million. Whatever interest we get on it, half we keep and half we use to give to Health and Human Services.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-227 and it was Unanimously Approved. 7-0

IX. BOARD APPOINTMENTS

Mayor Miyagishima appointed Abel Chavarria to the Senior Programs Advisory Board.

Councillor Sorg Moved to Approve Mayor Miyagishima's board appointment of Abel Chavarria to the Senior Programs Advisory Board and Councillor Levatino Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board appointment of Abel Chavarria to the Senior Programs Advisory Board and it was Unanimously Approved. 7-0.

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

(15) Council Bill No. 16-023; Ordinance No. 2782: An Ordinance Approving a Zone Change from C-1 (Commercial Low Intensity) to C-1/R-2 (Commercial Low Intensity/Multi-Dwelling Low Density) for a 0.29± Acre Parcel Located at 3899 Nemesh Drive. Submitted by Mark Stuve, Property Owner (62718).

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Councillor Sorg asked does the change mean that the property owner could put either a high impact residency or commercial?

Katherine Harrison-Rogers said they would be able to put in some commercial use in addition to a low density multi dwelling residential unit.

Councillor Sorg asked can it be in separate buildings or the same building?

Katherine Harrison-Rogers said either way but the lot is small so you're limited.

Councillor Sorg asked can it be two story?

Katherine Harrison-Rogers said it could.

Mayor Miyagishima asked could you give us some examples of what it could be?

Katherine Harrison-Rogers said it could be a quadriplex or triplex, a small café, a five and dime.

Mayor Miyagishima asked does the applicant have to disclose what they're doing there?

Katherine Harrison-Rogers said not at this time but they do have plans for multifamily.

Mayor and Council agreed to bring back.

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(16) Council Bill No. 16-024; Ordinance No. 2783: An Ordinance to Repeal and Replace in its Entirety Section 38.43 "CBD - Central Business District and Main Street Plaza Overlay Zone" of the Las Cruces Municipal Code (LCMC), 1997, as Amended to Adopt a New Section 38.43 "Downtown Development Code."

Mayor and Council agreed to bring back.

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(17) Council Bill No. 16-025; Ordinance No. 2784: An Ordinance Repealing Las Cruces Municipal Code (LCMC), 1997, Section 2-977, Membership, Pertaining to the Veterans Advisory Board, and Enacting a New Section 2-977.

Mayor and Council agreed to bring back.

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XI. CITY COUNCIL MEMBER BOARD REPORTS

There were none.

XII. GENERAL DISCUSSION

a.) Mayor

Mayor Miyagishima said thank you Robert Garza for all that you've done. You've left the City in a fantastic place with great staff.

He said Chief Brown you have taken our fire department to a whole different level. We've always been proud of you.

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b.) Council

Mayor Pro-Tem Smith said the City is in a much better place and I appreciate the tone that Robert Garza has set.

Councillor Levatino said Chief Brown you've been a delight to work with. You're totally professional.

She said Robert Garza has been amazing to work with and I'm going to miss you a lot.

She said Mayor Pro-Tem Smith and I were at the Fallen Police Officers Memorial Service. This year was particularly touching and emotional. We don't give them enough credit or admiration.

Councillor Sorg said I concur with all that's been said about Chief Brown and Mr. Garza.

He said I am glad John Hamilton brought the pesticides issue to our attention as I would like the Zika virus and mosquito control to be discussed at the work session. People need to follow the label directions.

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Councillor Eakman said I feel spoiled to have spent my first six months on City Council with Robert Garza and Travis Brown. Chief Enriquez, Daniel Avila, and David Dollahon have an incredible opportunity because they have huge shoes to be filled in our City.

Councillor Pedroza said every time I've gone to talk to Robert Garza he finds a solution. We are going to miss you and Travis Brown and I want to thank you for your service.

She said I went to the HIV/AIDS Memorial Service at Young Park. I wanted to see if there was a way we could disseminate information.

She said I think we should be proud of the County Clerk's Office and the increased voter registration.

She said I think the focus of the spice ordinance should be on the predators.

She said I saw the Michael Moore movie "Where Do We Invade Next" and I will invite you all to see it with me.

Councillor Gandara said it was an honor working the short time I had with Robert Garza. I am grateful for your leadership.

She said I appreciate how professional Chief Brown has been so I thank you for your leadership and service.

She said tomorrow at the Rio Grande Theater they will be showing a film called "I Am Me" about gender, sexuality and identity.

She said I've heard some negativity about the Pull Together Campaign but I think it's an amazing opportunity for our community to come together and assist the children in child welfare.

Daniel Avila, Assistant City Manager said Robert Garza has a great reputation and is very honest. I appreciate all the mentoring he has given me.

David Dollahon, Assistant City Manager said I think Robert Garza and Daniel Avila have set the example and set the standard very high. They have left us in a much better place than we ever could have been and I want to thank them for their time and effort.

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Dr. Jorge Garcia, Utilities Director said Robert Garza and I have been working together for 25 years and he's the best boss I've ever had. It was great working with Chief Brown.

Chief Travis Brown said Mr. Garza has been a tremendous individual to work for and I've learned a lot from him. It's been my honor to work with everyone in the City. I'm grateful to have been able to represent the Las Cruces Fire Department. I thank the Council for the support to make this community safer.

Chief Eric Enriquez said I would like to thank Travis Brown. He has been a great mentor to me. Mr. Garza has been an example to Las Cruces. They will both be missed.

Chief Jaime Montoya said Robert Garza and Travis Brown have the ability to talk to people. They handle themselves professionally.

Rusty Babington, City Attorney said Robert Garza and Travis Brown have amazing creativity and I wish them a great time for the rest of the ride.

Linda Lewis, City Clerk said I'd like to thank Robert Garza for all he's done for me in the past 11 years. Chief Brown will be greatly missed.

Lonnie Hamilton, Member of the Public said I'm chair of the CIAC. Robert Garza is patient and understanding and much appreciated. Travis Brown has informed us during our CIAC meetings.

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c.) City Manager

Robert Garza said our municipal court building is suffering an air conditioning problem so their hours of operation may be affected. We're making emergency procurement measures to get that resolved as soon as possible.

He said thank you for the positive comments. The work that I have done has been rewarding. Thank you for trusting me. The staff is incredible so you are in good hands.

Mayor Pro-Tem Smith Moved to Adjourn and Councillor Sorg Seconded the motion.

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

Council said "Aye."

Meeting Adjourned at 4:08 p.m.

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