



OFFICE OF THE MAYOR

CITY OF EL PASO ADVISORY COMMITTEE ON PUBLIC SERVICE BOARD (PSB) LAND MANAGEMENT

City Hall Building, #2 Civic Center Plaza
Mayor's Board Room
Monday, July 16, 2012
8:00 a.m.

AGENDA

1. Discussion and action on the following items:
 - Land use
 - Revenue sharing practices and policies
 - Designation of real estate as inexpedient to the System
 - Processes for selling real estate
 - Open space
 - Zoning and master planning
 - Growth
 - Water resource management
 - Asset management
2. Discussion and action on a proposed El Paso City Council resolution regarding temporary procedures for the issuance of Public Service Board/El Paso Water Utilities Revenue Bonds.
3. Other Items.
4. Schedule Next Meeting – August 6, 2012 @ 8:00 a.m.

The City of El Paso Advisory Committee on Public Service Board (PSB) Land Management is comprised of the following individuals:

COEP Mayor John F. Cook, Chairman	non-voting member
Bill Studer, City of El Paso	non-voting member
Marcela Navarrete, El Paso Water Utilities	non-voting member
Gary Hedrick, Utility Consultant	voting member
Ray Palacios, Community Representative	voting member
Charlie Wakeem, Community Representative	voting member
Edward Escudero, Current PSB Chair	voting member



Two Civic Center Plaza, El Paso, TX 79901, Ph: (915) 541-4145

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Ted Houghton, Former PSB Vice-Chair voting member
Richard Castro, Former PSB Chair voting member

Staff support is provided by the following individuals:
Diana Nuñez – Executive Assistant to the Chairman
City Attorney's Office if necessary
Bob Andron – El Paso Water Utilities
Paul A. Braden – Outside Counsel - Fulbright & Jaworski L.L.P.
Corky Hall – First Southwest Company
George W. Williford – First Southwest Company
Maria Urbina – First Southwest Company

All members and support staff with exception of a representative from the City Attorney's Office were in attendance. Mr. Castro arrived at 8:55 a.m.

Others present:

City Council Member Cortney Niland
Jim Tolbert
Chris Robert – El Paso Times
Rick Bonnart (current PSB Board Member)
Katherine Brennand (current PSB Board Member, upon her presence, she immediately stepped out to allow deliberations of the existing PSB members as her presence made up a quorum of the PSB)

Item 1 - Discussion and action on the following items:

- **Land use**
- **Revenue sharing practices and policies**
- **Designation of real estate as inexpedient to the System**
- **Processes for selling real estate**
- **Open space**
- **Zoning and master planning**
- **Growth**
- **Water resource management**
- **Asset management**

Chairman Cook opened the meeting at 8:00 a.m.

Item 2 - Discussion and action on a proposed El Paso City Council resolution regarding temporary procedures for the issuance of Public Service Board/El Paso Water Utilities Revenue Bonds (resolution on file with the minutes)

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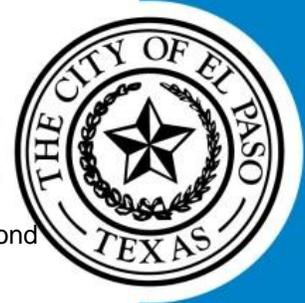
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Mr. Escudero expressed his concerns regarding the effect any changes to bond issuance will have on the PSB's credit rating.

Representative Niland explained that she placed the resolution on the El Paso City Council agenda for consideration in an attempt to include the City of El Paso in the decision making process since the very beginning of the discussions when the PSB is contemplating to issue debt. There is no process at the moment and she would like to establish one so that it does not come as a surprise to the Council when they have to approve bonds for the PSB. She requested that the Chief Financial Officer (CFO) for the City of El Paso be invited to participate in all the meetings related to the financial and operational position of the PSB. She proceeded to comment that there is the misconception in the community that PSB revenue bonds are collateralized by the land and she would like to change it from this point on to encourage growth in the city. There should be a balance between economic development and water conservation.

Mr. Escudero and Ms. Navarrete added that the PSB's strategic planning and budget sessions are open to the public and encouraged the CFO to attend.

Mr. Studer explained that the City only gets involved until the very end and agreed that it would help to involve City staff since the very beginning.

Mr. Escudero and Mr. Palacios questioned what exactly the resolution is trying to accomplish and the requirement of a written recommendation from the Deputy City Manager or Chief Financial Officer to the Council prior to submitting any request to issue bonds by the PSB up until October 1, 2012.

Mr. Escudero disagreed with the City questioning the process after the PSB has been working at it for an entire year; this will only be establishing an additional step. There is no issue with having the City participating in the meetings but there is an issue if the intent is to question the process that the PSB goes through and how the El Paso Water Utilities (EPWU) manages their debt. A negative recommendation will have an impact.

Chairman Cook added that if the CFO gives a negative recommendation, Council will more than likely deny the bond issuance. He questioned if the requirement of a recommendation jeopardizes the process.

Mr. Braden stated that this would add a step to the process and changes will have to be made when drafting documents as well as inviting the appropriate parties, but does not necessarily think it will slow down the process. They will just expand the invitations to include the City's CFO and DCM.

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Mr. Escudero reiterated his concern in questioning the due diligence of the PSB and the EPWU staff when issuing debt. He was also concerned about the resolution going to Council the following day and if it would have any negative impacts on the utility. He questioned what additional controls this resolution will put in place that is not there today.

Mr. Hedrick and Mr. Palacios stated that it appears to be administrative matter that can be fixed without a resolution.

Chairman Cook concurred that this is a failure to communicate. He requested quarterly reports at a presentation during a City Council meeting. He also requested that the CFO be invited to the Finance Committee meetings.

Mr. Hall explained that First Southwest goes around and briefs Council every time that the PSB is getting ready to issue bonds per Chairman Cook's request.

Mr. Houghton agreed with quarterly reports not only on bond issues but on all matters of the utility and questioned if there was a conflict of interest when the City and the PSB retain the same bond counsel.

Ms. Urbina reiterated that they do send copies of all documentation to the City and have tried to be very informative when the PSB will be issuing debt but agreed with communicating more with the CFO.

Mr. Hedrick reiterated that the process already exists but that there has been a lack of communication by not inviting the CFO to seat at the table. The only concern is that the City's recommendation might kill the bond issuance since City Council already has the final word.

Mr. Wakeem requested that the process of communicating with the CFO or designee and inviting them to attend meetings be formalized for future administrations.

Chairman Cook recommended that the resolution be amended that the CFO and DCM appoint a designee to attend at least the PSB Finance Committee meetings.

Mr. Hedrick and Mr. Palacios agreed that the City participate in meetings with the PSB but it should not be a requirement. They requested that a written recommendation such as this set of minutes or an e-mail be provided indicating that the CFO will be notified of meetings regarding PSB debt issues and be invited to participate in lieu of the resolution.

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Mr. Studer confirmed that he would not want to attend all meetings but by keeping him informed, he can make a decision on which meetings to attend. He would appreciate being included in the meetings in order to have the background information before issuing bonds.

Representative Niland agreed to delete the resolution but added that it includes not only open meetings but all meetings regarding the PSB processes. She then questioned that if the bond covenant deems the land as part of the system as it has been in the past, what happens if the committee comes back with a recommendation to separate it from the PSB, will the language for the bond covenant have to be different. She stated that she will not support issuing debt that will not have different language for the bond covenant going forward as this will prohibit this committee from managing the land in a different way should they decide to do so and questioned what kind of recommendation needs to come forward for a springing covenant.

Mr. Braden clarified that the definition of system should include land, ex: water plant, land under the water plant is part of the system. The issue with the land is inexpediency, which dictates whether or not the land is available for sale.

Representative Niland stated that the problem is the lack of criteria that deems the land inexpedient.

Mr. Wakeem stated that he was told by Ms. Navarrete that the land is deemed inexpedient when somebody wants it.

Ms. Navarrete clarified that land is inexpedient when there is a request for the land, or else you do not put it up for sale, same as real estate land, when the market can bear it.

Mr. Escudero explained that the PSB has been following an agreement that was developed and paid by the EPWU a couple of years ago that dictates how any piece of land would be sold (on file with the minutes). Over 7,000 acres of land is in the Master Plan for sales less and greater than 25 acres.

Chairman Cook added that he would be fine with turning over the land as long as the City becomes responsible for managing it.

Representative Niland explained that Plan El Paso indicated that the COEP could have done a better job in managing the land. She has all the confidence that EPWU manages water efficiently but is not convinced that they can efficiently management land. She expressed her disagreement in EPWU having the final decision on whether land should be sold or not. The public has the perception that all deals are done

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behind closed doors and a set process will help reinstitute the public's trust. She expressed that the problem is that the PSB has ultimate authority on the land before the process even gets started by declaring whether or not the land is inexpedient. She wants to entice companies to invest in the city.

Ms. Navarrete explained that EPWU does have professional staff managing their land. When a request for land is received, the first step is to go through Engineering to find if the land is inexpedient and determine if that piece of land in question will ever going to be needed for infrastructure. In the master plan, the EPWU always reserves the right to put in the necessary infrastructure to develop that land. Three master plans are in the process right now and they work hand in hand with the COEP's Planning and Engineering Departments since the beginning of the process. Different City departments (Planning, Engineering, Parks, and Environmental Services) are members of the Coordination Committee which meets biweekly to consider requests; City Engineer Alan Shubert is the Chair, to make sure it meets all City requirements.

Mr. Escudero reiterated that the process is already in place to ensure approval of the City Council. He asked if any changes will have potential effects in future bond ratings and rate payers. The issue is who determines whether or not the land is inexpedient to the system.

Chairman Cook added that he does not recall of any instance during his tenure as elected official where the City has requested any PSB land and denied.

Mr. Braden explained that he understands that any decision by the committee will only affect debt issued going forward to avoid locking any existing debt. The 1952 ordinance can be changed to indicate that the PSB no longer declares it inexpedient without consulting with the City.

Mr. Wakeem read an Attorney General decision that indicates that utility systems own the property but the Cities have the ultimate authority.

Dr. Bonnard reminded everyone that water supply is the main concern and also that the master plan contains a very short list of available land less than 25 acres and it is readily available for anyone to make an offer. He expressed his concern for small communities who come to the utility when their water systems fail.

Mr. Houghton stated that he does not believe the utility should be in the land management business. He proposed a joint effort where the City plans the growth and not where the utility controls the growth. Planning should be done by the utility

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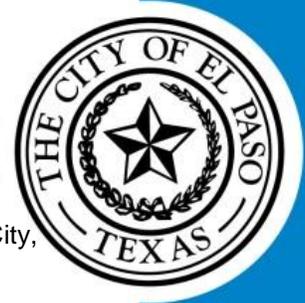
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but even better if it is joint planning; not advocating for the transfer of land to the City, the revenue source will still be with the utility.

Mr. Hedrick pointed out that the half billion dollar of debt that has been issued was under the basis that the PSB is the body which will determine inexpedience and unless we are prepared to refinance the debt, we cannot change this requirement until the debt is fully paid.

Mr. Braden explained that refinancing might not be necessary as some bonds have an amendment provision. He reiterated that the PSB is an agent of the City and proceeded to go over the ordinance and the process.

Mr. Palacios questioned what the impact will be on the bond rating.

Mr. Hall explained that the land is in the books at \$64 million (cost value) and that there will not be any immediate effect but there is a concern on the sales potential market value over time.

Ms. Urbina added that any contribution on the revenue of those sales might have an effect but not sure how. She added that if water revenues are not sufficient, land sales will also be a part of revenue, and if not enough, the utility will have to raise the rates in order to maintain the bond rating.

Chairman Cook and Mr. Hedrick agreed that the problem is not the lack of a planning process but lack of communication. There is a need to define inexpediency and clearly identify the process to come to the conclusion that the land is inexpedient.

Mr. Castro stated that there is already a planning process in place.

Mr. Escudero stated that he is not sure what matters most, economic growth or a sustainable water system. When faced with the decision of determining if a piece of land is inexpedient, it is all based on judgment, his criteria is based on whether or not the land holds value to the system at that point in time. In his case, he is looking at it from the rate payer perspective vs. the tax payer perspective to make a determination. Other PSB members look at it from a different perspective.

Representative Niland stated that the ultimate goal should be to leverage the relationship of both entities so that it benefits both, the rate payers and tax payers, where ultimately City Council makes the final decision. Revenue from land sales has been less than \$2 million in the last couple of years out of an \$80 million budget. The EPWU has done a very good job of conserving water but the City has done a very poor job in managing growth.

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Mr. Andron asked the committee not to overlook the water supply and conservation, it is not the only factor but the control of the water under the ground is one big factor, for which the utility is not in a drought position as other cities.

Ms. Navarrete explained that the EPWU is very unique; there are hardly any utilities that have all the land holdings the utility has. The COEP was smart enough back in 1952 to buy land for the water rights and this is why EPWU is in such a good position today.

Mr. Escudero added that other cities are coming to El Paso to look for best practices to include land management.

Mr. Houghton stated there is a communication and management issue. It was very smart to separate the politics from water back in 1952 but we have grown. He gave the example of the UT System that has a separate entity who manages their land. He proceeded to make a motion to create the City Public Lands Committee and added that the 5% goes away and will remain with the PSB at market value and that the percentage of revenues be increased from 10% to 12%, which is about \$2 million per year.

Mr. Escudero questioned how the \$2 million will impact the rate payers.

Mr. Navarrete added that the \$2 million is less revenue; less money to invest in capital improvements.

Mr. Hall responded that it will immediately impact the rate payers and rates will have to be increased.

Mr. Wakeem expressed his disagreement with the 5% of selling back the land to the City at market value, it is the City's land and they should not have to pay market value. He agreed with the creation of the committee and the reports.

Representative Niland pointed out that Sun Metro repeatedly updates Council on their operations and financials and the PSB does not to which Chairman Cook added that Sun Metro gives updates because City Council makes up the Mass Transit Board.

Mr. Castro gave San Antonio as an example of a city that is having water problems. He expressed his concern with taking away the PSB's right to declare land inexpedient and added that it appears that there is another underlying reason and it might become political. He questioned, as Chairman Cook did before, if there has

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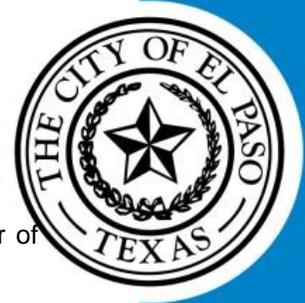
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been an instance where a request for land has been denied. He is not in favor of increasing rates.

Representative Niland stated that she believes that it has become a political one sided matter controlled by the PSB where they make the final decision without consulting with the City. She does not want PSB to manage growth.

Dr. Bonnard expressed his disagreement with the percentages as stated on the motion. He added that he does not think this committee will be any more effective than the system is now as everybody looks at inexpediency in a different way.

Mr. Palacios recommended that the motion be amended in the spirit of balancing economic development and carry out the mission of the PSB.

Chairman Cook added that that the City already does the master planning but the PSB pays for it.

Mr. Escudero and Mr. Castro added that all this does is that the cost of master planning is being taken away from the PSB and going to the City. He reiterated his disagreement on the redundancy of creating this committee when that is the function of the PSB as assigned by the City Council.

Mr. Braden stated that the change per the motion can be worked out on changing the ordinance going forward along with the bond language.

Mr. Hedrick commented on the inability to change the bond ordinance to which Mr. Braden clarified that there is a provision on bonds issued in 1994 that allows for amendments. He questioned how and when the change will effectuate. He also questioned what happens if the City Council approves the creation of this committee and the PSB votes against it. He also questioned who has the authority to refund the bonds.

Mr. Braden explained that the City would not be able to do anything unless the PSB agrees and added that the City would not be able to issue debt until 2014. He responded that the City Council has the authority to refund the bonds; the PSB does not issue bonds.

Mr. Escudero questioned what happens with bonds issued in 2003 and older to which Mr. Braden responded they will be paying off in 2013 but will have to see which ones have the provision and might require a springing covenant. Bond debt issued prior to 2003 is about \$26 million.

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Mr. Houghton questioned how much land has been sold over the last five years to which Ms. Navarrete responded around \$7 to \$8 million out of an \$80 million budget.

Mr. Houghton revised his motion as follows:

Motion made by Ted Houghton, seconded by Charlie Wakeem and carried to make the recommendation to have the PSB establish a separate City Public Lands Committee made up of two PSB members of which one member will be the PSB Chair, two City Council members, and Chairman as the Chair, to jointly determine whether land is inexpedient or not and plan in conjunction with the City of El Paso.

AYES: Gary Hedrick, Ray Palacios, Charlie Wakeem, and Ted Houghton

NAYS: Edward Escudero and Richard Castro

Motion made by Charlie Wakeem, seconded by Ted Houghton and unanimously carried to make the recommendation that the City of El Paso Deputy City Manager and Chief Financial Officer participate in the PSB Finance Committee meetings related to the issuance of debt and that the EPWU provide quarterly reports to the City Council related to the financial and operational position of the PSB.

AYES: Gary Hedrick, Ray Palacios, Charlie Wakeem, Edward Escudero, Ted Houghton, and Richard Castro

NAYS: None

Item 3 – Other items

No items for discussion.

Item 4 - Schedule Next Meeting – August 6, 2012 @ 8:00 a.m.

Due to conflicts in several of the member's schedules, a new date was proposed - Wednesday, August 22, 2012 at 8:00 a.m.

The meeting was adjourned at 9:42 a.m.

John F. Cook
Chairman
Mayor of El Paso



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