

JOHN F. COOK
MAYOR



JOYCE WILSON
CITY MANAGER

CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
CARL ROBINSON, DISTRICT 4
MICHEL NOE, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
CORTNEY NILAND, DISTRICT 8

**SPECIAL WORK SESSION MEETING OF THE CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS**

August 30, 2012

The City Council met at the above place and date. Meeting was called to order at 10:01 a.m. Mayor John Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Carl Robinson, Michiel Noe, Steve Ortega, and Cortney Carlisle Niland. Late arrivals: Susie Byrd, at 10:04 and Emma Acosta at 10:05. Excused: Eddie Holguin, Jr.

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REGULAR AGENDA

1. COMMUNITY DEVELOPMENT DEPARTMENT:

Discussion and action on the City of El Paso continued commitment to the development of the Artspace Project at 601 North Oregon.

[Community Development, William Lilly, (915) 541-4643]

Mr. Greg Hardberg and Ms. Cathryn VanderBrink, of Artspace, presented a PowerPoint presentation (copy on file in City Clerk's office).

Mayor Cook questioned Mr. Greg Hardberg on his estimation of our chances to secure the funding for the TDHCA grant.

Mr. Greg Hardberg stated that this is a very, very comprehensive project. We will be competing with a relatively small pool of applicants for a very small pool of resources.

Mayor Cook stated that he wanted to focus on getting the most housing stock on the ground. That this is his philosophy with the TDHCA funding. He gets the calls from the 90 year old woman who is on the waiting list for public housing; and wants to know her chances in her lifetime of getting housing.

Mr. William Lilly, Director, Community and Human Development stated that the TDHCA looks for local support. They need very definite and affirmative support. A 9% tax credit with more value.

Mayor Cook said that Council needs to be very specific in its support for a designated project. Is this competing head-to-head with the Housing Authority?

Mr. William Lilly responded, "No, not with the one that was just approved, but it would be if they apply again this year".

Representative Byrd stated that Jerry Chicon called her from the Housing Authority about this and wanted to partner. She will ask the Housing Authority to bow out if they are competing with us, explaining that we supported their project last year.

Representative Byrd questioned the quirky scoring system for the allocation plan. The more contribution a developer gives he should get more points – not the same points for varying levels of monetary commitment.

Mr. Greg Hardberg stated that he had met with Jerry Chicon this morning. There currently is a sliding scale for points – but a pretty flat one – based on contribution.

Representative Byrd asked if private funding helps?

Mr. William Lilly responded that “Yes, they look at it all – all sources.”

Representative Byrd asked Mayor Cook to get the Housing Authority to support this project.

Representative Niland agreed with the Mayor, we should focus on one project.

Mayor Cook stated he would like Council, as a body, to pass a resolution of support rather than sending individual letters from Council members.

Representative Robinson questioned tax credit and income levels that are allowed. Do rules apply across all tax credit facilities?

Mr. Greg Hardberg stated that if your income increases above 140% of the threshold, your rent will increase, but you will not be kicked out.

Representative Robinson questioned if we engaged private developers in this discussion about the Art Space project?

Ms. Joyce Wilson, City Manager, responded, “Yes, we made it clear that when this project came forward, we would make it our priority for this funding cycle.”

Representative Robinson stated he is in support of Artspace but is concerned about the competitiveness of the funding. Developers have contacted him and other Council members asking for letters of support.

Mr. William Lilly stated that the developers’ position has been that they will compete for the funding for their projects as that is the business they are in.

Representative Robinson asked for an explanation of the 4% Tax Credit Program.

Mr. William Lilly and Ms. Joyce Wilson stated that it is a pretty open application system, but requires more equity from the applicant.

Mr. Greg Hardberg gave examples of 4% projects across the country and stated that the 4% is rarely used for new construction projects. He explained Artspace is a one-time applicant here for this project.

Representative Robinson asked what is the financial commitment?

Mr. William Lilly stated it is \$500,000 plus site (land).

Representative Robinson questioned Mr. Eric Pearson, County Development Director, on the timeline. Mr. Pearson replied, “Early 2014 to complete construction and get into operation. Within 18 months of application being submitted, we would be underway.”

Mr. Greg Hardberg stated that if funding award is made in August, the project should be operational in early 2015 for the project.

Representative Ortega praised Artspace's presentation, projects and participants. He stated that three organizations compete for the tax credits and mentioned his conversation with developer Ike Monty.

Representative Acosta asked, "Others can still compete, correct?"

Mr. William Lilly responded "Yes."

Representative Acosta asked, "What if the tax credit is not awarded?"

Mr. William Lilly stated we would apply again the following year.

Mr. Greg Hardberg stated that it is not unusual for a project to take two years to get funding. We would examine TDHCA reasons not to fund it and address those deficiencies in applying the next year. If still denied, consider the 4% credit.

Representative Acosta stated, "So if we do not get it this year – we'll ask developers not to apply again next year"?

Ms. Joyce Wilson responded yes, we would ask them not to apply.

Mayor Cook stated that typically the Housing Authority has not applied for this funding, but they did last year."

Representative Byrd asked to send a letter to the Housing Authority and Housing Finance to explain the City's position.

R E S O L U T I O N

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Council of the City of El Paso decided that the Artspace Project at 601 North Oregon Street is the City's sole priority project for TDHCA Tax Credits for the 2013 Funding Cycle and that the City of El Paso will not endorse or send letters of support for any competing projects during this funding cycle; and

Further that the Mayor send letters to the Housing Finance Corporation and the Housing Authority of the City of El Paso requesting that they join the City in supporting the Artspace Project in the 2013 Funding Cycle.

Motion made by Representative Niland; seconded by Representative Ortega to approve a resolution of support for Artspace as the sole priority project.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

ABSENT: Representative Holguin

2. CITY ATTORNEY'S OFFICE

Discussion and action on aggressive solicitation policy.
[City Attorney's Office, Nathan Brown, (915) 541-4550]

Ms. Joyce Wilson, City Manager, stated her reasons for presenting this ordinance to City Council, her personal support, and the request of three current Council Members and a prior Council Member.

Mr. Nathan Brown, Assistant City Attorney, presented a PowerPoint presentation, (copy on file in City Clerk's office).

Mayor Cook asked Mr. Brown if the ordinance would still allow the firefighters to conduct their MDA "boot" drive.

Representative Noe asked if it applies to children selling water bottles for fundraising?

Mr. Nathan Brown responded that, "Yes, it applies to teens, school groups, girl scout cookies – everyone. If they are being aggressive, they can not do it anywhere. No one can do it on the medians."

Ms. Sylvia Firth, City Attorney, stated that some private property owners have requested this ordinance so they can post a sign.

Representative Noe asked, "How it was going to be enforced?"

Assistant Chief Feidner stated, by fines. But, if they do not meet the requirements – valid ID, permanent address, they will be booked.

Representative Noe asked if EPPD has the time to do this?

Assistant Chief Feidner stated that it will be put in the cue for service for a unit to respond.

Representative Noe asked "Are we passing something that has no teeth, which can not be enforced?" Are we opening ourselves to a whole bunch of complaints about failure to enforce? Where would this apply, in residential areas?

Assistant Chief Feidner stated that on private, residential property, that would be criminal trespass.

Representative Noe stated he can see a negative impact on a lot of churches, schools and sports teams in their ability to raise funds.

Assistant Chief Feidner stated that the problem is from the median. It is unsafe for solicitors and distracting for drivers.

Ms. Joyce Wilson elaborated on the dangers in the medians.

Representative Byrd stated that she agrees with the median issue as it concerns safety, she agrees about private property, but has a real problem with the "aggressive" aspect and its application. She believes we have plenty of rules on the books already to address this. She believes this is going to apply most to homeless people and poor people – people with whom we are uncomfortable.

Representative Lilly said that she is glad this is being brought forward – a problem at Mesa and Thunderbird with aggressive children, exactly.

Representative Acosta asked how many complaints have been received about aggressive solicitation?

Assistant Chief Feidner stated he didn't have the specific number. It hasn't been tracked. He has received some complaints from City Council and some from citizens.

Representative Acosta states she has an issue with how "aggressive" is being defined – it is subjective. Newspapers are sold on the medians and she buys them.

Assistant Chief Feidner said that aggressive is defined as "intimidating" and "abusive language".

Representative Acosta stated that what may be aggressive to me, may not be aggressive to someone else.

Assistant Chief Feidner stated that if the officer observes it they will issue a ticket or arrest. However, if a citizen reports it he/she must come forward and sign a complaint.

Mr. Brown stated that we will not be taking away anyone's livelihood.

Representative Robinson stated that he has experienced aggressive solicitations himself and has received complaints from his constituents.

Representative Niland said that she receives 2-3 complaints about aggressive solicitation downtown every week.

Representative Ortega stated he has experienced problems with aggressive solicitation in restaurants downtown and at Aztec Calendar Park.

Representative Ortega questioned people holding signs for payday lending and other services.

Mr. Brown stated that it would be unconstitutional to limit this speech.

Representative Ortega stated he would like to explore it.

Ms. Firth stated that this ordinance is as far as she believes legally the City can go.

PUBLIC COMMENT:

Motion made by Representative Byrd, seconded by Representative Ortega, and unanimously carried to **SUSPEND THE RULES** of Council to allow for additional speakers after the sign up period.

Ms. Carol Bohle, Director of the Homeless Coalition, stated that she believes that this ordinance is affecting a specific population – the homeless.

- Aggressive component
- Soliciting within 15 feet of certain locations
- Homeless people are less likely to have ID and no permanent residence; so they will be arrested. Arrest of those with no ability to pay.

Ms. Wilson stated she met with the Coalition on this ordinance and made some changes.

Mayor Cook asked what changes were made as a result of the meeting.

Representative Byrd agrees that this will end up targeting poor people.

Representative Robinson asked if anyone has been arrested for panhandling?

Assistant Chief Feidner stated that no one that he knows of.

Motion made by Representative Niland; seconded by Representative Lilly to direct the City Attorney to introduce the ordinance.

AYES: Representatives Lilly, Robinson, Noe, Ortega and Niland

NAYS: Representatives Byrd and Acosta

ABSENT: Representative Holguin

Motion made by Representative Robinson; seconded by Representative Ortega and unanimously carried to adjourn the meeting at 11:30 a.m.

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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk