

JOHN F. COOK
MAYOR



CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
CARL ROBINSON, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

JOYCE WILSON
CITY MANAGER

REVISED
SPECIAL CITY COUNCIL MEETING MINUTES
10TH FLOOR CONFERENCE ROOM
SEPTEMBER 1, 2009

The City Council met at the above place and date, as a joint meeting with the Ad Hoc Committee on Annexation. Meeting was called to order at 4:35 p.m. Mayor John Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Susie Byrd, Emma Acosta, Carl Robinson, Rachel Quintana, Steve Ortega, and Beto O'Rourke. Late arrivals: Eddie Holguin, Jr. at 4:44 p.m.

The following Ad Hoc Committee on Annexation members answered roll call: Randy O'Leary, Gary Sapp, Suzy Shewmaker Hicks, Conrad Conde, Dan Olivas, Bill Sparks, and Nick Costanzo.

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1. Discussion and action on the City of El Paso's annexation policies and procedures.

Mr. John Neal, City Manager's Office, presented a PowerPoint presentation (on file in the City Clerk's office).

Mayor Cook invited Mr. Olivas to present the developers' compromise proposal. Mr. Olivas urged for a new study that takes into account all of the items available for annexation and all benefits given to the City from annexed property; suggested a third party conducts the study and determines a template for use by developers to assess annexation fees; recommended the process then move forward based on all the information that is gathered from the study as to whether or not development pays for itself.

Mayor Cook stated that Ms. Joyce Wilson, City Manager, suggested Half Associates as the third party consultants since the company is familiar with the City's process. Ms. Wilson explained her recommendation. She stated that the staff's proposal for a fixed fee was geared to satisfy the desire for certainty in the assessment of annexation fees that developers and the Council seemed to be seeking. She explained that Half Associates would be a cost-effective consultant. Ms. Wilson expressed concern about the use of a matrix due to the lack of certainty with a matrix.

Mayor Cook stated he was concerned about taking off the table the discount for the use of smart growth development in the assessment of the fees.

Mr. Olivas stated his belief that certainty could be gained with the use of a matrix template that is sufficiently detailed.

Mr. Sparks commented that existing residents in neighborhoods are looking for fairness and balance and voiced his dislike of the lock box approach for depositing annexation fees. He expressed concern that economic setbacks or downturns could make flexibility in funding necessary for the City Manager that could not be obtained if the annexation fees were deposited in a lock box exclusively for infrastructure in the annexed areas.

Representative Byrd presented a PowerPoint presentation on "highest value at the lowest cost" applicable to land development. She stated she would like to promote new urbanism smart growth, smart code, and change the development pattern of the last thirty years. She explained suburban sprawl development elements and

contrasted them with elements of smart growth development. Representative Byrd said her goal for her constituents was the highest value at the lowest cost smart growth development – roadway connectivity. She presented slides from the city of Charlotte, North Carolina, about roadway connectivity and cost effectiveness; implications of roadway connectivity for El Paso; Charlotte’s solid waste pickup costs as they are affected by roadway connectivity; CEOs for cities study called “Walking the Walk” about walkable communities and the positive affect on home values.

Rep. Ortega questioned Rep. Byrd on what proposal she is advocating, the specifics regarding the assessment of annexation fees.

Rep. Byrd stated she is arguing for flexibility. She is asking developers to consider the land they already have vested with the City to adopt a roadway connectivity code for those properties in exchange for a reduction in or elimination of a per household annexation fee.

Gary Sapp stated that the task John Neal and his team were given was to identify the capital infrastructure costs within a defined area. That was determined to be \$820 per household. Mr. Sapp stated that if you set it any lower you are asking for existing taxpayers to pick up the difference in the actual costs in lieu of requiring that from the annexed residents. He urged Council not to set the cap on the annexation fees artificially low if the City does not know the answer to the question as to whether or not new development pays for itself.

Mr. Sapp stated that he liked that Mr. Olivas recommended that Council ask that question first – “Does development pay for itself?” Two questions should be asked, also. 1) How do you “play” the transfer of costs between the landowners in areas to be annexed and the taxpayers? 2) How do you “play” the transfer of costs between the landowners themselves in different areas to be annexed where the costs of annexation may differ? Mr. Sapp urged Council to either protect the taxpayer with a full recovery of the annexation costs or build a matrix that can analyze each development’s merits and benefits to the City and its full costs.

Rep. Lilly expressed her concern that if the City spends the money to do a third party study, will the developers accept the findings of the study, the annexation costs determined by the study?

Mr. Randy O’Leary stated that as the Home Builder’s Association they would support the findings of the study. As for individual developers, he couldn’t say whether or not they would accept the findings.

Mr. Sapp stated that other than one property, Hunt does not own property outside the City limits. If there were a matrix to consider a development’s viability in advance and the costs associated with the annexation of the development it could be a rational, transparent tool.

PUBLIC COMMENT:

Mr. John Birkelbach, real estate attorney, stated that the study would need to be conducted by an independent third party. He objected to Ms. Wilson’s recommendation to use Halff Associates citing Halff’s relationship with the City. He suggested a major CPA firm conduct the study, a firm that does not do business with the City or with the developers.

Rep. Acosta explained to Mr. Birkelbach that using Halff Associates would be a quicker process due to their familiarity with the City of El Paso. She explained that if the City has to go out for proposals the process will take longer. If the City does go out for proposals for a study the study should be to analyze the full cost of annexation to be applied fairly and equitably.

Rep. Lilly expressed her concern that, no matter who conducts the study, if the developers believe the annexation fee determined by the study is too high they will forgo annexation and develop outside the City limits.

Rep. Byrd commented that already there may be software that factors the annexation costs of developments.

Mr. Sapp stated that the idea is for a comprehensive study that factors not only all the costs of annexation but the benefits of annexation, too.

Rep. Acosta recommended that if the taxpayers are going to pay for a new third party study the study needs to be complete, assessing the true costs and that everyone accepts the amount that the study comes back with. She does not want developers to complain if the costs determined by the study are too high.

Rep. Robinson stated he is agreeable to conducting a new, independent third party study. But he questioned who would pay for it. He expressed his concerns about master planning, why we prepare a master plan and then deviate from it with rezoning. He believes it is a waste to spend a lot of time and resources preparing a master plan that we do not follow. He gave examples in the Northeast part of town where down-zoning from the zoning in the master plan has affected the neighborhoods negatively, neighborhoods that started out as nice areas. He stated that cul-de-sacs do not work.

Mr. Olivas stated that he believes developers will accept the third party study if they have input in the study. He doesn't know if eventually they will agree to annexation or not. He advocates a template method of determining annexation costs that developers can apply to each development to be annexed.

Rep. O'Rourke commented that the real proof will be if developers will accept annexation. If they stand to gain economically, they will do it. He expressed trust in Mr. Olivas's judgment. He speculated that maybe an antagonistic relationship is natural between the City and developers as both move to maximize their economic advantage. No matter what the study ends up showing, in the end, negotiation between the City and developers will have to take place. He isn't sure how the study will help. He almost is more inclined to accept the status quo procedure which is negotiation between the City and the developer on each development to be annexed.

Conrad Conde stated that at the end of the day it comes down to whether or not you want an incentive for developers to agree to annexation. Speaking personally, not as a member of the Chamber of Commerce, he does not feel comfortable with a new study. Speaking as a member of the Chamber, the Chamber wants the community to prosper. He does not believe that happens through annexation fees. He believes that comes down to a case by case negotiation for each development.

Suzy Shewmaker Hicks stated that annexation is a good thing; smart growth is a good thing; smart growth is a saleable thing that homebuyers will embrace. She still is not convinced any annexation fee is required. She believes that traditionally new growth has paid for itself.

Rep. Acosta stated her belief that amenities and capital infrastructure are needed in annexed areas and in existing neighborhoods. She advocates the proposal that is before the group.

Rep. Ortega questioned John Neal if there is an annexation scenario where the \$820 per household will not cover full annexation costs. Mr. Neal answered that the \$820 would recover the annexation costs in all scenarios.

Members of Council and of the Ad Hoc Committee questioned if the \$820 includes a new police substation on the far east side. Mr. Neal confirmed it does.

Rep. Byrd made the motion noted below and Rep. Lilly seconded the motion.

Rep. Acosta made a counter motion to accept the \$425 annexation fee per household and to allow the City Council discretion to reduce the fee if smart growth principles are used or the developer can convince the Council the annexation fees should be less. There was no second to Rep. Acosta's motion.

Mayor Cook requested a roll call polling of votes from the Ad Hoc Committee members on Rep. Byrd's motion and he explained the motion to them.

The Ad Hoc Committee members were polled.
Voting Aye: Mr. Sapp, Mr. Costanzo, and Mr. Sparks.
Voting Nay: Mr. O'Leary, Ms. Shewmaker, Mr. Conde, Mr. Olivas

City Council then proceeded with the action of the Special City Council Meeting.

Motion:

Motion made by Representative Byrd, seconded by Representative Lilly, and carried to **ADOPT** the policy with the following amendments: "impose full cost recovery of \$820 annexation fee per household unless the developer can convince the Council that it should be less; that the City continue to offer over-width paving discounts; and that the City offer discounts for smart code/smart growth and road connectivity and that the fees be placed in an account to be specifically used for the capital improvements for areas annexed."

AYES: Mayor Cook and Representatives Lilly, Byrd, Ortega, and O'Rourke
NAYS: Representatives Acosta, Robinson, Quintana, and Holguin

Mayor Cook broke the tie, voting aye.

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Motion made by Representative Byrd, seconded by Representative O'Rourke, and unanimously carried to adjourn this meeting at 5:42 p.m.
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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk