

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
MICHIEL NOE, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
CORTNEY NILAND, DISTRICT 8

SPECIAL MEETING OF THE CITY COUNCIL MINUTES
COUNCIL CHAMBERS
November 5, 2012

The City Council met at the above place and date. Meeting was called to order at 10:07 a.m. Mayor John Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Emma Acosta, Michiel Noe, Steve Ortega, and Cortney Niland. Late arrivals: Susie Byrd at 10:10 a.m. and Carl Robinson at 10:22 a.m., Excused: Eddie Holguin, Jr.

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1. Discussion and action on a Resolution that Mayor John Cook be authorized to submit comments to the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Sunset Commission on behalf of the City of El Paso during the public comment period regarding rules and regulations governing housing tax credits.

RESOLUTION

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

That Mayor John F. Cook be authorized to submit comments to the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Sunset Commission on behalf of the City of El Paso during the public comment period regarding rules and regulations governing housing tax credits. The comments will request that TDHCA:

1. Create a system that allows for points awarded when the applicant is able to demonstrate the support of the local community by presentation of a duly authorized resolution of support from the governing body of the municipality.
2. Allows for a sliding scale of points based upon the amount of local dollars being contributed.
3. Allows the funds in a project contributed by a public housing authority be considered a local contribution when the project being considered is a project that includes, affordable housing, subsidized housing and market rate housing; includes a mixture of funding sources; and said project has been sponsored by the municipality as evidenced by a resolution from the governing body of the municipality.

Mayor John F. Cook and Representatives Byrd, Robinson, Noe, Ortega and Niland commented.

Mr. William Lilly, Community and Human Development Director commented.

Representative Ortega questioned scoring and Resolution.

Representative Niland questioned scoring, Resolution and impact on local applicants.

Representative Byrd questioned what impact the City Council can have on the issue of scoring Housing Authority money as a local match.

Mr. Lilly stated he is not a tax credit expert.

Representative Noe questioned allocation of points and leveraging and impact on tax credits.

Representative Ortega questioned Mr. Lilly for his recommendations regarding Artspace project and Housing Authority project.

Mr. Lilly stated if Housing Authority applies for their project, their project could outscore Artspace.

1st Motion made by Representative Byrd, seconded by Representative Acosta, and unanimously carried to allow for additional speakers.

ABSENT: Representative Holguin

Public Comment:

1. Mr. Ike Monty, Private Developer, stated his concerns that the Artspace project may not use all the credits.
2. Mr. Bobby Bowling, Private Developer, advocated for a level playing field, said the Artspace is at a 7 point disadvantage based on site vs. his project vs. Housing Authority project. Only City and County funds can make up the 13 points.

Representative Byrd said she would prefer to get answers from staff, not from applicants. She questioned Revitalization zone points.

Mr. Lilly responded, "Revitalization zone points total 6 points."

Representative Robinson asked if the Artspace project is or is not in jeopardy.

Mr. Lilly responded that it appears the Artspace project may be outscored in speculative scoring scenarios.

Representative Robinson asked if Council had made a commitment to Artspace project. Correct?

Mayor Cook answered, "Yes we did, as a Council."

Mayor Cook said we are basically here to talk about the 13 points for government funding.

Ms. Sylvia Firth, City Attorney, said the Artspace project is in the queue for funding, but there is a possibility that if we change the rules, it could be outscored by other projects.

Representative Niland questioned why is Council now being asked to get in the conversation? Said some of the dialog today appears to be a bit of a conflict of interest. Questioned, isn't it a state decision? Said this is putting her in a very difficult position.

Mayor Cook said that the Resolution is asking for a 3 point component: Public Housing, Affordable Housing and Market Rate Housing, 13 points.

Mr. Lilly said the QAP changed at the TDHC, now the Housing Authority funds no longer can be determined to be local funding.

Representative Niland said by passing this Resolution today, we would be allowing the Housing Authority to compete?

Ms. Firth said she would check with other cities to answer Representative Niland's question about what other cities are doing to allow or not allow the Housing Authority to use their funds as local funds.

Representative Niland asked why the TDHC changed the QAP scoring criteria.

Mr. Lilly said they wanted to create a level playing field. QAP will be set November 13, 2012. Right now the rules are proposed.

Representative Niland asked if we do this, we would be advocating for something that is in direct conflict with the Artspace project we have endorsed?

Representative Byrd asked if the Housing Authority intends to compete for this round of funding.

Jerry Chicon, Housing Authority Director, said right now, they do not intend to compete, but they are worried about subsequent years. They need to replace 500 units.

Representative Byrd again asked if the Housing Authority intend to compete against the Artspace project.

Mr. Chicon said if we are #1 and Artspace is #2, we will forego the award to allow Artspace to win.

Representative Byrd said, "I would prefer that you do not compete at all, just as we did not compete against the Housing Authority's project last time."

Mr. Chicon said, "We will not compete, but we will apply."

Representative Byrd said, "That is the same thing."

Representative Niland said we would rather you both do not compete, Housing Authority and Bobby Bowling.

Representative Byrd reiterated that the Housing Authority is a public entity.

Mr. Chicon said the only way we will not compete is if Artspace is the only entity that competes.

Representative Byrd asked, "Did the Housing Authority Board vote on this proposal you are making to us?"

Mr. Chicon answered, "No they have not."

Representative Byrd asked, "So we are just supposed to take your word for it?"

Mr. Chicon answered, "Yes."

Representative Robinson said he prefers a level playing field. Asked, "Should I make a decision that gives an advantage over one party? What other funds can you compete for aside from these, as a Housing Authority that a private sector developer can not compete for?"

Mr. Chicon said, "I will have to go back and look."

Mr. Lilly said he does not know the answer to the question.

Mr. Chacon said 100% of their funds come from the federal government.

Representative Acosta asked about the QAP "Doesn't it charge every year?"

Mr. Lilly said normally yes, but not substantially.

Mayor Cook commented.

Representative Acosta believes if we send this Resolution it is in conflict with the Resolution sent by Council supporting Artspace.

Mayor Cook explained he had asked Council to select one project so the Artspace Resolution was passed. This Resolution is to ask TDHC not to impose scoring that would put Housing Authority at a disadvantage.

Ms. Firth clarified that this Resolution is engaging in the rule making at TDHC or not.

Representative Acosta asked, "Why did we wait so long to make our recommendations?"

Representative Byrd wants Mr. Chicon to go back to the Board and ask them not to compete.

Mr. Bobby Bowling, private developer, read comments and voiced his argument for a level playing field in scoring.

Representative Niland asked Mr. Bowling, "Would you step aside for Artspace?"

Mr. Bowling answered, "Yes I would and I do not need a Resolution from a Board. I am a man of my word. I can not beat them under 2013 proposed rules. But if I somehow did, I would step aside or give back points. I can not beat them unless you, the City Council, gave me points through your dollars."

Representative Niland asked Mr. Lilly why we are trying to change the rules. It sounds like TDHC is trying to give control back to local government, City Council, is that correct?

Greg Hamburg, Artspace Project, explained how the Artspace project is in scoring peril with the new rules.

Representative Niland asked Mr. Hamburg about his concerns about the way the Resolution was drafted by the Mayor.

Mr. Hamburg said the Resolution as presented gives Housing Authority an advantage that removes any advantage we had. But with Representative Byrd's amendment, his concerns are removed.

Representative Niland asked Mr. Lilly, "What is the best direction City Council can take today?"

Mr. Lilly said the amendment would suffice. Longer term, we need to get TDHC to take into account smaller developments that can be scattered throughout the community.

Representative Niland asked, "Should we include that in the Resolution?"

Mr. Lilly replied, "It will not do much for 2013, but for 2014 and years forward, yes."

Mr. Lilly reminded Council that even if the Housing Authority and Bobby Bowling withdrew their applications, there could be other developers who apply against Artspace.

Ike Monty said if IBI, his company, did submit it a project, they would defer to Artspace.

Mr. Bowling asked to refocus on the policy issue, please. An out of town developer could come in and bid.

Ms. Lisa Turner asked, "What is your goal today with this item?"

Mr. Richard Dayoub, Greater El Paso Chamber of Commerce, agreed with the amendment from Representative Byrd. He noted this is a very complicated issue. He does not want the private sector to be at a disadvantage to the public sector, Housing Authority of the City of El Paso.

Representative Ortega asked, "Does Housing Authority of the City of El Paso have the opportunity to include market rate housing?"

Mr. Lilly answered their nonprofit arm does have that ability.

Representative Niland said, "This appears to be a bit of a compromise."

Mr. Bowling strongly urged City Council to draft some criteria for projects they would like to see built.

Representative Ortega disclosed a \$1,000 campaign contribution from Mr. Monty and Mr. Bowling, each.

Representative Noe said he may have received donations over \$500, but he is not sure.

Ms. Firth said Representative Noe must disclose \$500 or over, or he can abstain.

Representative Robinson had more questions about how the "local match" will be determined. State dollars and federal dollars could be determined to be a local match.

2nd Motion made by Representative Byrd, seconded by Representative Acosta, and carried to **APPROVE AS AMENDED**, a Resolution that Mayor John Cook be authorized to submit comments to the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Sunset Commission on behalf of the City of El Paso during the public comment period regarding rules and regulations governing housing tax credits.

- AYES: Representatives Lilly, Byrd, Acosta, Ortega and Niland
- NAYS: Representative Robinson
- ABSTAIN: Representative Noe
- ABSENT: Representative Holguin

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2. Discussion and action regarding housing matters on the City of El Paso's State and Federal Legislative Agendas.

Mayor John F. Cook and Representative Ortega commented.

Mr. William Lilly, Community and Human Development Director and Ms. Sylvia Firth, City Attorney, commented.

NO ACTION was taken on the item.

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3. Discussion and action on proposed revisions to Title 13 and Title 19 of the El Paso City Code and requirements for installation of sidewalks.

Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega and Niland commented.

Ms. Joyce Wilson, City Manager commented

Mr. Carlos Gallinar, Deputy Director of City Development, presented a PowerPoint presentation (on file in the City Clerk's office).

Representative Acosta questioned city projects and sidewalks in areas that have not had them.

Ms. Wilson said our policy will be to construct sidewalks unless the neighborhood objects to it.

Representative Acosta wants the City to require developers to build sidewalks over the areas that have not had sidewalks.

Mr. Gallinar explained how that would work.

Representative Byrd said the exceptions are for local streets, not TXDOT streets or arterials. She agrees with everything except Item 7 in the Ordinance.

Representative Robinson questioned sidewalks on easements and the impact of utility lines.

Representative Noe questioned #2 of the Ordinance. Representatives Noe asked, "Why are big McMansions, ½ acre or larger not requested to have sidewalks but regular people are?"

Mr. Gallinar said it was tradition.

Representative Noe asked, "Don't people walk? Do they all have gyms in their homes?"

Ms. Wilson said most tend to walk on their own lot or tend to be in a rural area.

Representative Byrd said sidewalks platted as 4/5/6 ft. – no one can go back and cut into it to obstruct the walkway. She noted she keeps asking for this to be done by the Planning Department.

Ms. Wilson said she would make sure that part of the code is addressed.

Representative Ortega said to call it the Oregon Street amendment.

Motion made by Representative Byrd, seconded by Representative Acosta and carried to **APPROVE** revisions with an **AMENDMENT** to Item 7 that reads instead of the current language "except in in-fill areas" to Title 13 and Title 19 of the El Paso City Code and requirements for installation of sidewalks.

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

NAYS: Representative Noe

ABSENT: Representative Holguin

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4. Adjournment.

Motion made by Representative Acosta, seconded by Representative Noe, and unanimously carried to **ADJOURN** this meeting at 12:43 p. m.

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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk