Sierra Vista City Council
Work Session Minutes
April 12, 2016

1. Call to order – 3:12 p.m. in the City Hall, Council Chambers, 1011 N. Coronado Drive, Sierra Vista, Arizona.

Roll Call

Mayor Rick Mueller – present
Mayor Pro Tem Bob Blanchard – present (arrived at 3:14 p.m.)
Council Member Alesia Ash – present
Council Member Gwen Calhoun – present
Council Member Rachel Gray – present
Council Member Hank Huisking – present
Council Member Craig Mount – present

Others Present:
Chuck Potucek, City Manager
Mary Jacobs, Assistant City Manager
Adam Thrasher, Police Chief
Victoria Yarbrough, Library and Leisure Services Director
Matt McLachlan, Community Development Director
Bruce Alarie, Building Inspector
Linda Jones, Management Analyst
Simone McFarland, Economic Development Manager
Jill Adams, City Clerk
Sister Cities Commissioners

2. Presentation and discussion:

A. Public Hearing Item: Development Impact Fee Updates: Land Use Assumptions (LUA) and the Infrastructure Improvement Plan (IIP)

Ms. Jacobs reported that staff has been working on the development fee update as it is a requirement by State Law and City Ordinance that the City update its fees every three years. There is a specified process that the City must go through once the reports are completed. There is a 225 day process that the City has to go through and currently the City is at the beginning of the process. The process that State Law describes is to develop two documents, the Land Use Assumptions and the Infrastructure Improvement Plan. These two documents are the guiding principles by which the development fees are established. Development fees are those one time fees for new construction only. Both residential and commercial that is intended to pay new development's fair share of public infrastructure required as a result of new development. The process includes a number of opportunities for public input, which has started and will continue with some additional meetings.

In February, the official Land Use Assumption Document and Infrastructure Improvement Plan were published on the City's web site that followed the February 9th Council meeting. A notice of public hearing was posted for 60 days that lead to the City's first official public hearing on April 12th. Following the public hearing, the item will be on the Council's agenda for action on May 12th. The option that Council selects will be posted on the City's web site for 30 days, which sets the next public hearing for June 23rd. Following an additional 30 days, July 28th,

Council would take final action to adopt the development fee schedule with October 17th as the earliest and recommended effective date of the new development fees.

Some of the direction received from Council as a result of the analysis was to remove the multi-use paths from the calculation of the parks fee and put it into the transportation category. The parks fee was not charged to commercial development and charged to residential development. Staff has provided four options for consideration and for public input. Three of them have to do with the number of lane miles that the transportation development fee would fund over a projected ten year period:

- Ten lane miles, which is the analysis of the City's growth trends indicate;
- Seven lane miles, which would mean that the City would construct less improvements; and
- Five lane miles.

One more option is to have Council choose any one of the options and do a targeted reduction of fees.

Ms. Jacobs shared that the City's most recent project that was paid for out of transportation development fees was the Avenida Del Sol Widening, 1.75 lane miles. According to Ms. Flissar, the upcoming Coronado Widening Project is just less than two lane miles.

Council Member Calhoun asked if it is one mile for each lane. Ms. Jacobs explained that it is being calculated by the lane width for a full mile.

Council Member Huisking asked if the City has the money for it now. Mayor Mueller asked if she was referring to the Coronado Project to which she indicated that she is. Mr. Potucek stated that the money has been budgeted in the current fiscal year and will go out to bid very soon. The money will carry over into next year's budget for completion. Ms. Jacobs added that it is previously collected transportation development fees and will be paid for out of that account.

Council Member Calhoun inquired about the development fees that cover that piece of road. Ms. Jacobs explained that the way that the City's development fees are structured is that all, separating residential from commercial, homes that have been constructed since 2007 have paid a development fee. Those funds go into a separately accounted for fund and the City then, because of Council's previous policy, add another 25 percent. Council has established the fee at 75 percent of the maximum supportable fee. At the end of each fiscal year the finance manager transfers in the 25 percent to make it whole and the money is then gradually disbursed for the various transportation development fee projects, which have been outlined in the previous reports that have gone through the calculation process. It is a wide variety of all new development that has happened since 2007 and has contributed towards the different projects. Council made a very conscious decision that has continued through the establishment and review each three years of the fees that the City would only apply transportation development fees to arterial roads in the community. Those are roads, i.e., Martin Luther King, Avenida Cochise and 7Th Street, which are main thoroughfares through the City that at some point, regardless of where one is in the community, because of its size will be driving on them.

Option 1 is the number of lane miles that TischlerBise calculates based on growth patterns would be required during the ten year growth period. Two fee categories are reduced and that is for multi housing units and manufactured housing; but everything else does go up including the single family unit home from $,3845 to $4,467. In addition, the nonresidential has all of the

fees going up and some fairly substantially. The commercial rate for general commercial retail establishment would go up on a per square foot basis from $4.07 to $7.28.

Option 2 reduces it down to 7 miles with the single family unit fairly comparable to be reduced by $178. The other two residential units would be reduced as well with lower reductions in the commercial area; but each hotel room would go from $880 to $1,279.

Option 3 is that the City would construct five lane miles with a cost of a single family residential unit going down by $619. Multifamily would go down by a little over $1,000 per unit with nominal increases to the commercial, office and industrial. There would be a $242 per hotel room increase.

Option 4 is for a targeted reduction; but because of the way that State law is structured, Council would be required to adopt an Infrastructure Improvement Plan and a Land Use Assumption document and choose one of the three options.

Ms. Jacobs explained that Council could choose to keep the current hotel room rate; but if a new hotel came into town, they would be required to pay the $880 per hotel room due to the way that State Law and the City Ordinance is drafted. The City through whatever fund deemed appropriate would make up the difference of that $242 per hotel room and transfer it into the transpiration development fee for that particular project. It is an option and it could be targeted in anyone of the areas displayed.

Staff has reached out to the City's stakeholders through the utilization of social media as well as the City's electronic newsletter. The three versions and reports have been posted on the front page of the City's website for the last 60 days followed up by emails to key stakeholders and to the SACA general delivery email address.

Mr. Kraps stated that he is at a loss at what could be next on the list of roads because this is important as the City is talking about potentially ten lane miles, a road with five lanes wide and two miles long or two additional lanes like being done with Coronado.

Mayor Mueller stated that he has the same concern as staff talks about ten, seven and five lane miles. If at ten years the City thinks that they need ten lane miles and this is only going to be in effect for three years starting in October, he does not see where those ten lane miles are either when he looks at the map. Mr. Kraps noted that it is arterial roads, which narrows it down to a small area.

Ms. Jacobs stated that staff has given this a lot of thought. The lane miles also apply to turn lane bays that would be added. Charleston Road is on the list of potential widening that would be required. After Coronado is completed, staff is talking about expansion on the east side as development grows. The future extension of BST or that portion of it would have to be from scratch even if the City did three for a quarter mile. The City Manager has not made a recommendation and that is one of the reasons why staff wanted the lower options because staff agrees with him that ten is a little high.

Mr. Kraps added that the key word is, "if development occurs," because it is flat. He also noted that he has been a part of the City for a long time and the City is at the bottom. He does not like to say that; but it is reality and reality says that when it gets bad, it should not be made worse by increasing fees.

Council Member Ash asked how current growth impacts the proposals. Ms. Jacobs stated that the length of time in which the Council has to spend development fees collected is ten years. Staff expects the projections to be fairly low for the next few years; but this is a ten year projection and while the projections are not very generous, they are projections. Staff's job is to present Council with an opportunity to look forward to those ten years, to collect what is development's fair share for whatever infrastructure that might be constructed and not just for what is going to be constructed over the next couple of years.

Council Member Ash thanked Ms. Jacobs and noted that she made an important distinction. The law requires that the City evaluate every three years; but the money that is collected due to development can be used within a ten year period.

Council Member Calhoun asked why the hotel fees are high. Ms. Jacobs explained that the fees are calculated based on trip impact and the generation of vehicle trips on the roadways and due to turnover there is a specific calculation. The report that was prepared by the consultant more specifically details the methodology behind it. They use a calculation of the ITE Trip Manual which designates that hotel rooms have a certain impact of the number of vehicle trips per day that is applied. Retail and commercial establishments have the same calculation and that is applied as well. It is greater than a home and that is the reason for the increase. Also added into the transportation development fee were the multiuse paths. It is applying the multiuse paths value due to the high level of service to all of the people in the commercial areas because people walk to the commercial areas. Also, the people in hotels use the multiuse paths while they are in town.

Mr. Potucek stated that Council Member Ash's point with regard to hotels being overbuilt is probably going to be the situation for at least the next few years and longer. Ms. Jacobs brought up the targeted option to potentially excluding an area from the development fees or an increase in development fees that the City would have to make up in other ways in the unlikely event that type of development occurred. The risk is having the General Fund make up the difference if something like that happened and Council chose to use the targeted option.

Council Member Mount asked if this is due to SB1525 and proceeded to read it. He stated that he is concerned with the consultant's growth calculations because the City is not growing. They don't make sense to him and he would be very interested from an economic development standpoint, especially with fees and the fee calculations that they are using.

Mayor Mueller stated that there are options per law and one of the options is to have a group as Council Member Mount read and the other one is to have a consultant, which is what the City opted for.

Council Member Ash stated that since Council Member Mount raised a legal question, she would appreciate a response from the City attorney.

In response to Mayor Mueller, Council Member Ash stated that Council Member Mount read SB1525, Subsection G of the law and she would like clarification from the City Attorney.

Council Member Mount added that the point that he is trying to make is that the City has a consultant bringing them calculations that seem different. If Council is not in agreement that the growth calculations are correct, then that calls into question any of the fees that are being proposed because they could be based on something that is not correct. There are alternatives and ways that Council can get better information. Throughout the process, he

spoke to home developers, i.e., Rick Hoffman, and he found out that Mr. Hoffman had not been spoken to by anybody on the issue. Mayor Mueller noted that he had spoken to Mr. Hoffman, although, he did not go into great detail. Council Member Ash added that she had also spoken to Rick Hoffman.

Council Member Mount stated that from an economic standpoint, he also believes that when times are tough, fees should not be raised. Ultimately, what the City is trying to do is overcome the core problem, which is a lack of growth and he believes that the City should not push forward growth as a message when fees are tacked onto the commercial industry, residential industry and hotel industry, which is suffering. He is not asking to eliminate everything; but keep everything the same and be consistent.

Council Member Calhoun stated that from the recommendations received, she does not see all fees being raised. Council Member Gray noted that they are in some form or another. Council Member Husking added that there are tradeoffs.

Council Member Huisking asked about the Coronado Widening Project from Busby to Golf Links. Ms. Jacobs stated that the Coronado Widening Project is three lane miles. It is two and going to five with some turn lanes and it comes out under two lane miles total.

Council Member Huisking asked what will be left for any future projects if everything is kept the same way and the money that is budgeted for the Coronado Widening Project is spent. Ms. Jacobs stated that her understanding is that once the project is bid and staff knows that number, it will drain the rest of the transpiration development fees that are available for projects. Mr. Potucek added that it will be close; but there are plans to budget for signals at Campus and Colombo.

Ms. Jacobs stated that the transportation development fees are not just for pavement as they are also for signals, i.e., the future signal plan at Seventh and Golf Links. The signal in front of Cochise College will be eligible as well as a number of other signals that are intended once traffic gets to that level. The City would install the signals for safety purposes.

Council Member Huisking asked if the signal at Campus Drive and Seventh met the warrants for installation. Ms. Jacobs stated that Campus Drive and Seventh have; but Seventh and Golf Links has not and as the rest of the Workman Housing Development is completed, it could trigger the need for that particular signal in the future. Part of the fees collected is set aside for those signals. Mr. Potucek stated that the other signal is at El Camino Real and Wilcox, which was warranted while the hospital was there; but the impact of the new college campus is not yet known. He believes that it might meet warrants once they get up and running.

Council Member Huisking summarized that if the City does not change anything and leaves everything the way that it is, the City will get the much needed project that was budgeted; but there will not be enough left for anything else and the City does not have any contingency for future projects. Ms. Jacobs stated that the development fees are one fund source that has specific requirements and if development fees are not available, then any necessary infrastructure would need to come out of the Capital Fund.

Council Member Gray stated that Frank Moro could not be present due to being ill; but she agrees with what he has to say and asked how the growth pattern is established because she is hearing about population declines, job reductions on Fort Huachuca and she has not seen any new commercial or residential construction on the horizon as only five permits have been pulled this year. Mr. McLachlan added that they are for new single family units.

Council Member Gray stated that she fails to understand how there is growth when indicators state something different. Ms. Jacobs stated that the projections were made at a snapshot in time. The projections are not about the City's population as they are about new construction. The population could go down; but the City could still see new homes going up. The snapshot that they did occurred last November or even earlier. There is no question that over the last six to eight months things have changed; but a snapshot has to be picked at some point, which is why this has to be done every three years as it is so volatile. At the time that those projections were made, those numbers were different than they have been over the last three months. Ms. Jacobs added that she will follow up in writing from TischlerBise with a response on that.

Council Member Gray stated that Mr. Moro wanted her to say that he is in agreement with the concept of development fees, that he understands and is not against those; but currently the City has over 1,000,000 square feet of empty commercial space. In the last 10 to 12 years, rents have gone down 35 to 50 percent and there is still that much empty space. At this time, it would be a bad time to raise development fees because new commercial buildings are not going to be built and raising rents will still be an issue as they are already low and still vacant.

Council Member Gray asked what it would like if Council opted to leave the fees as they are now. Ms. Jacobs stated that the City has to update the fees and do the new calculations; but if Council's policy decision is to have the fees stay the same, she can go back to TischlerBise and they can back into that. That is an option and they would take out infrastructure and the multiuse paths and make them all completely paid by the City. They can back into that number, if that is Council's direction.

Council Member Gray stated that she understood that it was something that Council had asked TischlerBise to present; but she has not seen that. Ms. Jacobs stated that the only option that Council can get to that right now is to take one of the options and adjust accordingly because it has to be proportionate.

Ms. Jacobs suggested that Council take the seven lane miles and decrease fees in the residential category as well as the nonresidential category, collect the old fee and calculate the difference when a new project comes in. The City would then be responsible for making up the difference. The formula is driven by State Law that the City has to follow. In addition, there are state cases and Supreme Court cases, which mean that the City has to be fair about how it is applied as everyone has to pay their fair share. There has to be a clear way of showing that it is a fair share.

Council Member Gray stated that she understands that and her opinion is that raising fees now when things do not look rosy in the future is sending a very poor message when the City is trying to work on economic development and trying to bring people in. If the economy starts to recover, which she believes that it will, and results are seen from new businesses coming in, then that is the time to look at development fees; but she disagrees with inflating them at all when things are in the current situation.

Council Member Calhoun stated that this a dilemma for her because she sees, even without new people coming into the community, the roads being used continuously and not staying in good condition. She also asked what would encourage people to come here, if the City does not do those things that keep the community looking good and meeting the needs of the citizens who live in the community. Lower impact fees are great if that would encourage growth. She is aware that the City is trying to encourage growth, businesses and residential; but there needs to be a resource to present a city that makes people want to come to it.

Council Member Gray noted that impact fees were only collected on new development and if there is no new development, then there is no money to repair streets from that fund and that is what the capital improvements fund is for. Council Member Calhoun stated that she understands that; but she finds it hard to believe that there will be no growth, impact, homes being built and no one coming in. The numbers are low and Mr. Kraps stated that the City is at the bottom and if it gets any worse, then the door might as well be closed and have the lights put out. She added that she does not believe that it is that dire and if nothing else, the City is on its way out of this terrible slump. She also made the comment that she marveled at Mr. Potluck's comment about the City moving back up by 2018 and she wants it so badly to be true and she is sticking to that.

Mr. Potucek stated that it is important to understand that these fees can only be used for new development for new infrastructure. It does not help the City in terms of maintenance other than there is an additional funding source for the new development so that the City does not have to use funds that are currently being used for maintenance items. The City did not have to use capital improvements funds by having these funds available to do Coronado and Avenida Del Sol. The City is using the capital improvements funds to assist with the maintenance type of projects. It would take away from the ability to do maintenance type of projects if the City had to build new out of the capital improvements fund.

Mr. Potucek pointed out that Option two has fees going down on the residential side with increases in hotel, commercial, office and industrial. He does not believe that over the next three years there is much risk to the City in having to offset funds from sales tax dollars or whatever to support the difference between the current rate and the new for those particular categories. There is a risk; but that risk is relatively low and Council has to remember that they are looking out ten years.

Mr. Potucek added that the next three years can be seen fairly clearly and they don't look that great; but ten years from now, he sure hopes that it looks a lot different and under this scenario, he does not see the need to increase rates. In fact the City is decreasing half of the categories.

Council Member Mount stated that he is not sure whether he agrees with the statement that this is not about population and that it is about new construction. There is a clear correlation between how new construction goes up and then the relative increase or decrease of population within the City. Council Members have all read the newspaper article that states that the City is number four in the country for loss and that is an impact. He also stated that he has been asking for the last year what the consorted effort, the plan is. The City has spent money on a brand that says that this is who the City is going to be and in that year, Council has raised taxes and now there is discussion about raising development fees.

Council Member Mount asked Council to forget residential because they know that homes are not being sold or built; but they are trying to get new businesses to come in so why would they want to increase fees. It takes planning for a business owner to plan strategically the cost to move in, get set up and start making money to hire people so that there is more tax revenue to go fix streets or to build new improvements. When Council starts to play with things like this on a down economy it starts to throw some of those plans off and it starts to make people gun shy because it is going to be harder for them to set up brick and mortar stores that the City needs to drive the economy, to get new jobs and more people in town, then Council should not do it.

Council Member Mount also asked how much money is expected to be brought in with development impact fees. Ms. Jacobs stated that she does not have that number and she will have to get back to him.

Council Member Mount stated that the message, no matter what, even if it is a slight increase to the fees, is that the City made another increase to the fees. He thinks that the messaging for this would be wrong as he believes that they should keep things stable. He asked why the demand to increase a road if there is no growth since this is only for new construction i.e., widening roads, which again is about population. He also asked if that can be stopped or held off so that focus can be on repairing the current streets without ever touching the improvement funds for the new work.

Council Member Mount asked why the City wants to increase the width of the roads, which correlates to population, if there is a decrease in population. He also asked if is a valid option to not do the projects, not worry about the impact fees and to focus contingency funds on things like road repair and upkeep of the existing roads. Ms. Jacobs stated that Council can certainly apply general fund or capital improvement dollars more to up keeping roads; but any of the fees collected under the development fees must be applied solely to the projects that are in the infrastructure improvement plan and only for arterial roads. Council Member Mount asked about getting rid of the development fees. Ms. Jacobs stated that it is certainly a Council Policy options.

In response to Council Member Calhoun, Mayor Mueller explained that it basically means that the City would be solely dependent on the capital funds that they have from the taxes to repair roads, assist in growth and all of the other things. Council Member Gray added that it includes new construction.

Council Member Mount asked how much money has the development fees generated in the last five years. Ms. Jacobs stated that she does not have that number. Mr. Potucek added that he would have to go back and look at it; but it has been enough to pay millions of dollars on Avenida Del Sol. Council Member Gray added that the new hospital alone brought in a lot.

Council Member Gray stated that she knows that they are looking 10 years out, that they have to evaluate this every three years and agrees with Mr. Potucek in that Option Two reduces the fees in residential and that by doing the targeted fees with the City making up the difference on any of the nonresidential is a small risk. She asked if Council while looking at this in three years and at results concerning the economy and the economic development efforts could evaluate and change the fees at that time. Mr. Potucek stated that Council has that option and under that scenario Council would not be raising fees at all, Council would in fact be decreasing the fees. Council Member Gray stated that she is in favor of that option.

In response to Council Member Calhoun, Mayor Mueller explained that is a separate option. Residential would be looked at under Option Two or Three and then Council would have to look at the nonresidential for one of those options and go back to the old rates. Council Member Mount asked if it is a decrease on the commercial as well as the residential. Council Member Gray stated that is correct and added that the City would pay the difference if a new commercial building is built; but, she agrees with Mr. Potucek in that it is a small risk of that happening based on how much empty square footage the City has for commercial space that needs to be filled.

Council Member Huisking noted that Council Member Mount had said never mind the residential; but staff made an effort to decrease fees in this option and the fact that the City

has 1,000,000 square feet available in commercial property for businesses coming into the area. She would not look at necessarily building unless it was so far out of code and a good example is the Lehman School that is taking over the old Imagine Charter School. It was an excellent choice for the repurpose of the building. She also thinks that there are a lot of options and she does not believe that she would beat the horse about nobody wanting to come to the City because the fees were raised on commercial. As discussed the risk is small and there are a lot of options for anybody who wants to come and so she does not think that it is a valid argument.

In response to Council Member Gray, Council Member Huisking indicated that she agrees with the option of the City taking the risk. Council Member Calhoun stated that it is a good point too. However, she has had people say to her that there are a lot of empty houses in the community and that the City should stop construction of new homes until those homes are filled and it is the same for commercial buildings. People may not want to live in a used home; but, she has not asked a person who is looking for a building whether they would make a choice of moving into a used building. She also asked that out of those 1,000,000 square feet of empty space, how many are in buildings that people may want to use. Council Member Gray stated that in the Soldier Creek building, a 60,000 square foot building, only 22,000 is full and it is a new building.

Council Member Mount stated for the record that he is ok with the idea of the decreases in the residential impact fees as long as there are no changes to the commercial. He added that he is not against all of it; but he would like to know what the numbers are and he agrees with Council Member Calhoun. He does not know if the Council needs to start philosophizing over whether or not somebody deserves to buy a new home, does not deserve to buy a new home, wants to build a business or has to rent one. Mayor Mueller noted that Council Member Calhoun stated that the City has no control over that. Council Member Gray added that the market drives that.

Council Member Mount stated that he will support it if staff can figure out what Option 2(b) looks like, what the numbers actually register to and they try to minimize as much as they can as it might be a win-win situation.

Mayor Mueller stated that a legal opinion has been requested by Council Member Ash, Council Member Mount requested the specific amount of money paid out through the years and what is the projected take on those fees for Option 2B .

Mayor Mueller also stated that he agrees that Council needs to look at Option two and three, see what they can do to suspend the nonresidential fees and look at what the difference is between current fees to have further discussion. Council Member Gray asked if that was Option four, targeted reduction. Ms. Jacobs stated that is correct and to have those applied to one of the other options. Mayor Mueller noted that it would be Options two and three in order to have reductions across the board.

Ms. Jacobs stated that the item will be placed on next work session and she will provide the information in advance so that Council has enough time to give staff some direction prior to the next Council meeting for action.

B. General 2015/16 Update to Sierra Vista Development Code (In accordance with City Code Section 30.16 revised, this item is being notice for public comment)

Mr. McLachlan explained that land use is regulated by zoning district in the City's Development Code. As part of the recent Code update, a major part of the update was standardizing the list of authorized permitted and conditional uses by zoning district and making sure each use was defined in the definition section. Following the initial public hearing and the 30-day resolution, it was brought to their attention that the Code did not define or list mobile food vending as a permitted or conditional use. Prior to the Code update, the only legal avenue that they had to operate was as an iterant vendor going from place to place, no more than two hours at a time, being part of an approved special event or applying for a temporary use permit, which is good for 30 days. The purpose of the ordinance was to recognize and legitimize mobile food vendors that operate outside these parameters and conduct business on a more regular and routine basis. The additional modifications that arose during the public comment period were considered together with amendments contained in the 30-day resolution in the same public hearing. The short time frame did not allow staff to solicit feedback from the affected parties, which resulted in concerns being raised with the Ordinance after its adoption. In the past month, staff has contacted most of the mobile food vendors that are currently registered with the City to discuss the provisions. The recommended amendments to the mobile food vending requirements reference adopted electrical code as being the minimum standard are, removes mobile food vending size limitation, deletes prohibited hours of operation and redundant food regulations that are covered under the County adopted codes. Based on staff interviews, the proposed modifications should resolve the issues that were raised. There are hundreds of mobile food vending ordinances in the books across the country, they are all different and none are perfect.

Mr. McLachlan added that in retrospective, he should have recommended a delay in the process to allow staff more time to do the necessary outreach before bringing the additional modifications forward to assure acceptance prior to the public hearing and a vote. In the future, he recommends that any significant amendments that arise during the public comment period be brought back to Council in the form of a revised 30-day resolution to ensure ample opportunity for public review and comment.

Council Member Gray stated that she thought she had seen for the first hearing a two-hour time limit. Mr. McLachlan stated that it is under the definition of an iterant vendor. It is in the definition section of the Development Code. Council Member Gray asked if that is still there. Mr. McLachlan stated that there is a use called itinerant vendor in the City Code and it is defined in the Development Code that basically refers to a road side vendor that operates on a two-hour basis. They migrate throughout the City.

In response to Council Member Calhoun, Mr. McLachlan stated that they choose to do that.

In response to Council Member Gray, Mr. McLachlan stated that they operate under the itinerant vendor classification, which allows them to do that without going through the permitting process for a mobile food vendor, which is a more regular routine use that operates beyond special events.

Donna Redenbo stated that she has nothing to do with the food trucks; but she owns two businesses in town and has been in Sierra Vista for over 30 years and she felt like she needed to step up to help. The Ordinance was brought to her and it concerns her because the City page has different information than what was published in the newspaper; therefore, she would like for Council to look up the two hour code. The food truck owners understand that they can only be in one location for two hours. The reason that she is mentioning this is because businesses, i.e., ice-cream trucks can still continue because they drive around; but the amendments that were posted on Council Member Gray's page as of April 11th has

changed. It went from no electricity, they can't plug in but they can't have a generator. She also heard that Council Members had not read it prior to putting it in the newspaper.

Mayor Mueller stated that in the definitions there are two types of folks, one is food vendors and the other is the itinerant vendor. The itinerant vendor sits on the side of the road and sells food and every two hours is required to relocate their operation. That is a different set of rules for that vendor than it is for the mobile food trucks. The food trucks will go in set up and they are there until they conclude their business for the day. Mr. McLachlan stated that he is correct.

Ms. Redenbo stated that it was not clear and some of the food truck vendors already have a contract with a business to sell their food, i.e., Street Tacos and Progressive. The two hour code is a concern for them. Everything else was changed and they appreciate that except for the two hour requirement. Mayor Mueller stated that the folks that she mentioned are not an itinerant vendor so that part does not apply to them. They are a mobile food vendor and there is no two hour restriction.

Council Member Gray noted that Item B1 indicates that the exceptions are those operating under an itinerant basis.

Council Member Ash asked Mr. McLachlan to clarify for a situation, i.e., Street Tacos, Mr. McLachlan stated that he spoke to Street Tacos directly and went through the provisions of the Ordinance and he is covered. He is a mobile food vendor and can operate with a simple annual permit.

The hours of operation are proposed to be removed. The initial Ordinance prohibited night time vending and now it is recommended that it be regulated on a case by case basis depending on location as part of the permitting process if there are issues or concerns with compatibility and those can be considered as part of the permit.

There is nothing that conflicts with his current operation. In fact, it would provide an avenue for him to permit his operation through the Development Code, which did not exist prior to the Ordinance being passed.

Council Member Gray stated that it is important for the people that are present that Item C, which are the exceptions for the people in attendance, is read. It is not just itinerant vendor; but it also provides exceptions for festivals, community projects, public events that occur on a periodic basis. Those would fall under the special event permits that are held at Veterans' Memorial Park. This only applies to only mobile food vendors as that is their primary source of business in town and that is what they are doing.

Council Member Huisking asked if the mobile food vendor is someone who is invited to be somewhere or do they just set up where ever they want to in the City. She also asked how do they know what is acceptable. Mayor Mueller noted that they pay to be there. Mr. McLachlan stated that they would furnish at the time of application evidence of the property owner's agreement for them to locate on their property. It is one of the requirements.

Ms. Redenbo explained that Street Tacos has an agreement with Progressive and they set up on that property at 10:30 a.m., they plug into their electricity and they have stuff worked out with them, i.e., maybe giving free lunch.

Ms. Redenbo added that the vendors wanted to know how it all began and what was said to prompt the proposed amendments because when they saw it there was distrust. If it had been explained to them, it would not have gotten the fire that it did.

Council Member Ash apologized and stated that it was a concern that Council heard and asked Mr. McLachlan to explain the implications of having food vendors not addressed at all in the Code and what that really meant because to her, it was eye opening. Mr. McLachlan stated that a use not being specifically authorized in the Code would mean that it is not an allowable use. Not every conceivable use is addressed under the Code and if something arises in the future that has not been contemplated at this time, i.e., mobile food vending, then that would have to be revisited in the form of an amendment. That is what transpired through this process. This is the first time this form of use has been brought forth to Council for consideration for inclusion in the list of permitted and conditional uses. Due to the presence of mobile food vending within the community, staff felt that it was a good idea to carry that forward with the proposed changes to include it as an authorized use subject to the permitting requirements.

Council Member Mount stated that he is falling on his sword on his ignorance on the subject as it started to roll out and clearly they are doing better now. He asked if there was a complaint brought forward about having the mobile food trucks in and around the City. He also asked that if there were no complaints, why the City was messing with it to begin with. He added that he understands what was explained; but he is not sure that he understands the idea that nothing is legal unless the City says that it is legal and suggested to state the limitations versus the capability. Mr. McLachlan stated that there are going to be gaps in every code and the thrust of the amendment was to fill that gap.

Mr. McLachlan stated that when he discussed the issue with Council Member Mount, he used as an example a fraternity house. The Code does not provide for one in residential districts and if one were to develop by the college, the City would not have to wait for a complaint to take action under the zoning code because it is not expressly authorized as a use in that residential district.

Council Member Mount stated that his concern with that type of argument is that it allows government to make whatever type of dispute they want. An example, the City already has code on the books that deal with noise and no one is going to care if it is a fraternity as long as they are not making a lot of noise and not violating the noise code. The City can't just simply come in and say that a fraternity house is not allowed for the sake of not having a fraternity house, even if no violation has taken place. It seems like an expanse of government reach that Council should resist.

Council Member Mount asked if a complaint or issue was brought forward. He also asked where the issue originated because clearly someone had to tell the City that it was not in the Code. Mr. McLachlan stated a land use attorney from California, a City resident, provided a series of comments on the Ordinance proposed. One of those comments was that the Code did not address or allow mobile food vendors and that was how it was brought to his attention. He agreed with here that there was a conspicuous absence in the Code, that gap that should be addressed to explicitly authorize that form of use, which is currently present in the community.

Council Member Mount stated that he appreciates the fact that Mr. McLachlan reached out to the food vendors and asked the food vendors if the changes fix the problems so that they can

go out and do business. Ms. Redenbo stated that they do; but she is concerned with what was put in the newspaper, which has now changed. The publication was a waste of money.

Mayor Mueller stated that the City is required by State Law to print all of that for everything that Council does and if there is a mistake it has be fixed and reprint it. Council does not have a choice on that.

Ms. Redenbo stated that she understand that and voiced her concern with the fact that Council did not read the Ordinance. Mayor Mueller stated that it should concern her and that should concerned her at election time.

Ms. Redenbo asked if the rules went back to what they were before the publication. Mayor Mueller stated that now the City's Code addresses specifically food vendors because it did not before. The City has not gone back to what they had before. Ms. Redenbo stressed that it has gone back to the way that they were before. Mayor Mueller stated that he would not argue with her; but that it has changed because it was not an authorized use before.

Council Member Huisking asked why Council is discussing the issue in the first place. The culture has changed as people who are not able to own their own restaurants can own a food truck. She believes from her own observation is that when the farmers market was moved to the City, there were a lot more mobile food vendors and everyone appreciated that. They saw how popular it was and there was an increase of mobile food vendors. By happenstance, Mr. McLachlan found that gap and now it is being addressed. It is in the Code and it is not like there was anything before; but the City never addressed anything. People were just out there doing their things; but now they know the guidelines and since the City is doing this for the first time, it is not unusual to make mistakes. Everyone is working it out together.

Council Member Calhoun stated that food trucks have been around for quite awhile and asked if this only related to food vendors. She also asked if other mobile vending, i.e., Air B&B and Uber is addressed that could occur in the future in any neighborhood that could increase the amount of traffic to that home. Mr. McLachlan stated that the State Legislature is addressing that issue and will preclude local governments from regulating Air B&B's. Mayor Mueller noted that the State is going to tell the cities what to do with those.

Council Member Gray stated that it is clear that the Council and staff listened and it was fixed. She thanked Mr. McLachlan for stepping up to the plate and fixing the issue.

Council Member Mount voiced his opinion in that Council are people and not perfect. Council was faced with something new and they made a bad decision that was immediately brought to their attention. Council immediately took action to get it fixed and there was no enforcement as any food trucks were shut down. He added that he spoke to several of the food trucks and within an hour there was a petition with 826 signatures. He wishes that the public was engaged all of the time; but is was shown, if the vendors take the good with the bad, that the vendors had a responsive Council that very quickly identified exactly some of the things that they were talking about, which were right. There was some common stuff that just slipped through. There was the same amount of public comment period applied to this as there is for everything else and the City did not have any. Council made a mistake in that aspect; but it got fixed and there was no enforcement. No one got shut down. Council reached out and got engaged on social media.

Council Member Mount noted that he put the petition on his page and helped to circulate it. Staff did step up to the plate and he believes that the problem is fixed and going forward they know better about going out to do a better job to reach out. It got them to a better point.

Duncan M. Stewart stated that he is a gofer for Street Tacos and he was a special events coordinator. He explained that the reason why the two-hour requirement got started was for vendors with coolers to maintain temperatures. It was not meant for people to move around. All vendors pay to be parked in spots and understand that things were fouled up. He asked Council to consider the cost to the vendors, the mental stress that was inexcusable. Council did respond quickly; but he does not expect Council to understand it. He also stated that he thinks that they are all on the same page and he is not worried about it. There is no food union and because of this the food vendors are starting to talk to each other. The two-hour requirement is for temperatures and strictly on food, which has been on the books for years.

C. April 14, 2016 Council Meeting Agenda Items (agenda attached)

Awards and presentations – There was no discussion.

Consent Agenda – There was no discussion.

Item 3 Ordinance 2016-003, Proposed Modifications to Mobile Food Vending Requirements

Item 4 Resolution 2016-021, restating the City's Commitment to Fair Housing in Sierra Vista

Council Member Mount asked if this is the item where the City states that the City has done nothing wrong and has not done anything wrong yet. Mayor Mueller stated that this is to support Fair Housing. Council Member Gray added that the City is reaffirming commitment to the Federal Fair Housing Standards.

Council Member Mount asked if the City has had any complaints or issues to-date that warrants the City to reaffirm commitment. Mr. Potucek stated that there has been none. Mayor Mueller noted that the City is required to make the commitment otherwise the City does not get the funds.

Item 5 Resolution 2016-022, Tourism Commission Appointment – there was no discussion.

D. Annual Commission Report by the Sister Cities Commission

Council Member Huisking introduced Ms. Susanne Himstedt-Gilbert, Chair for the Sister Cities Commission. Ms. Himstedt-Gilbert stated that the City has been a Sister City to Cananea, Sonora Mexico since April 1989 and since May 1998 with Radabeul, Germany.

Ms. Himstedt-Gilbert, provided the Commission's vision statement, mission and presented the commissioners.

Ms. Himstedt-Gilbert stated that after discussions with the Mayor of Radabeul regarding membership with Sister Cities International, meetings were established Council Member Husking and Sister Cities Arizona to investigate joining both organizations. The City's Commission is now a member of both the State and international organizations. The Commission is actively supporting hosting Sister Cities Arizona annual meeting in Sierra Vista next year.

Ms. Himstedt-Gilbert reported on the following activities:
- Exchange of information with the Mexican Consulate in Douglas, Arizona;
- Assistance with arrangements for the Sierra Vista Symphony concert attended by Mayors from each Sister City;
- Collection of adult and children's clothing, space heaters and school supplies delivery to Cananea, Sonora, Mexico;
- Collection of health supplies (canes and crutches) for needy in Cananea, Sonora, Mexico;
- Donations from the Mall of Sierra Vista (basketballs, backpacks) and distribution; and
- Participation in Cultural Heritage Celebration (Diversity Fair).

In October 2015 four students from Buena High School and 13 students from Cananea, Sonora, Mexico went to Radabeul, Germany. The Commission organized and managed the trip for 17 kids and three chaperons by purchasing plane tickets, arranging transportation to and from the airport, providing health insurance for the kids, matching hosts and students, holding parent meetings and supplying all the necessary forms.

The Commission handled all communication between Radabeul/Cananea/Sierra Vista, planned and executed a two-day trip to Phoenix to visit the State capitol museum and the Arizona senate, Papago Park, walking tour of downtown historic Phoenix and Tempe Butte, organized a picnic for all hosts and kids at the Cove in Sierra Vista. All activities were offered for the kids at free of charge and the cost to the Commission was about $1800.

The Commission attends the High School club meetings about two times a month to support fund raising, prepare presentations and exchange ideas to support the club needs.

Fund Raising included the Oktoberfest, a two-day event that the Commission plans and staffs. Volunteers helped which included kids from the High School Club, friends, and family)
    - Selling brats
    - made $4,035 last year
- Partnership with German American Club

The Commission's 2016 goals are as follows:
Evaluate current activities
- Expansion of Sister Cities Club in BHS
- Involve more schools within Sierra Vista and Cochise County
- Work with Tourism Office on opportunities to promote SV
- Develop new programs
    - Investigating creating a 501 3(c) as *additional* fund raising avenue
    - Adult exchange between the countries
- Helping and furthering all three cities with the exchange on various city levels

Mayor Mueller thanked Ms. Himstedt-Gilbert for all she and the Commission does and looks forward to working with them.

Mayor Mueller asked if objection to extending. No objections.

E. Discussion of Draft by Citizens Advisory Commission Board and Commission Tasking

Council Member Gray asked to delay the item. Mayor Mueller suggested moving the item to the May 24th work session. Council Member Gray stated that she will be out of town on that day as well.

F. Report on Recent Trips, Meetings and Future Meetings

Mayor Mueller reported on the Military Installation Meeting and noted that the Military Installation Fund got money for 300 acres north of Fort Huachuca to purchase that land along with the Arizona Land Water Trust that is going to do that from the State, which affects the City.

Council Member Calhoun stated that she attended the BOS Meeting, all of the other counties that are not Maricopa or Pima, regarding housing needs, management and homeless in the rural communities. She also reported on her trip to the Grand Canyon with her grandson.

Council Member Mount stated that he would not be present at the next Council Meeting.

G. Board and Commission Liaison Update – nothing to discuss.

H. Future Discussion Items and Council Requests

Mayor Mueller noted that staff should have a list already after items discussed during the first part of the meeting.

Council Member Calhoun asked if staff had responded to Jere Freedenberg's comments about the City's Transportation Department. Council did not respond and she believes that they should and it would be a good idea to respond.

In response to Mayo Mueller, Mr. Potucek stated that the comments have been sent to Ms. Flissar for a response.

Council Member Mount asked what type of response should be sent. Council Member Calhoun stated that she thought that Ms. Fredenburgh made allegations that she found awkward at best and needing to go to the City Attorney for comment for what she considered allegations. She would like to know what Ms. Fredenburgh was assuming.

Mayor Mueller stated that once the Public Works Director looks at it and if there are items that need to be discussed with Mr. Potucek for financial issues and then discussed with Council based on a recommendation determine the real response to the situation and not just Ms. Freedenberg's comments.

Council Member Mount concurred and stated that he looked at Ms. Freedenberg's packet and rode the bus to try and get a feel for it. He suggested a survey to count people and not just the ridership. That is the key metric that Council has to understand, "how many unique individuals are riding those busses." That changes the way that Council should consider the budget.

3. Adjourn

Mayor Mueller adjourned the work session at 4:48 p.m.

Mayor Frederick W. Mueller

Minutes prepared by:

Maria G. Marsh, Deputy City Clerk

Attest:

Jill Adams, City Clerk