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3 The following are summary minutes for the meeting of the **City of Las Cruces – Housing**
4 **Policy Review Committee** on January 19, 2022. The meeting was held via Zoom and
5 in Room 2007A at City Hall, 700 N. Main Street, Las Cruces, New Mexico.
6

7 **Members Present:**

- 8 Kasandra Gandara, City Council
- 9 Johana Bencomo, City Council
- 10 Yvonne Flores, City Council
- 11 Benjamin Beard, Las Cruces Home Builders Association

12
13 **Members Absent:**

- 14 Sonja Unrau, NM Mortgage Finance Authority
- 15 Juan Olvera, Mesilla Valley Public Housing Authority

16
17 **Others Present:**

- 18 Natalie Green, Housing Neighborhood Service Manager
- 19 Jan Lauterbach, Housing Development Coordinator
- 20 David Weir, Department Director Community Planning
- 21 Kevin Wilson, Housing Development Coordinator
- 22 Jennifer Vega-Brown, City Attorney
- 23 Sergio Ruiz, Policy Analyst
- 24 Beth Bardwell, League of Women Voters
- 25 Nicole Martinez, Director, Mesilla Valley Community of Hope
- 26 Monique Lopez, Housing Resilience Leaders
- 27 Becky Baum, RC Creations, Transcription

- 28
29 **1. Call to Order:** Chair Bencomo called the meeting to order at 2:06.
30
31 **2. Introductions:** General introductions were made.
32
33 **3. Conflict of Interest:** No conflict of interest was proclaimed.
34
35 **4. Acceptance of the Agenda:**
36
37 **5. Minutes for Approval:**
38 **a. Housing PRC Meeting of October 20, 2021:** Motion to accept the Minutes
39 by Board Member Gandara, seconded by Board Member Flores. Motion
40 passes.
41
42 **6. Action Items:** None.
43
44 **7. General Discussion:**
45 **a. GO Bond Initiative:** David Weir gave the presentation. The City is moving

1 forward in the next step for the 2022 GO Bond. The GO Bond is a financial
2 tool which allows the City to do large projects that will benefit the public for
3 a number of years and is funded through property taxes. The way it is
4 currently structured it will not affect the property tax rate. There are other
5 ways the property taxes can go up but it will not be because of the City. City
6 Council approves the questions and projects that are proposed and then
7 are presented to the voting citizens and they then decide on whether to
8 grant the projects or not.

9
10 The current list of projects for the GO Bond is on the City's webpage and
11 regularly updated. A consultant has been approved to do project scoping
12 and public engagement. A website will be developed as part of the project
13 and a citizen survey will be conducted for projects. An overview of the 2018
14 projects was done; Eastside recreation complex, parks with rehab, soccer
15 field lights, increase dog parks in the community and improve others,
16 walking, biking, and recreational trails, construction of Fire Station 3 on
17 Valley Drive, as well as renovation and expansion of the Animal Shelter.
18 Pictures of the projects were shown. Many of the projects are being
19 completed now and many people are already using the new facilities.

20
21 There was discussion on how the GO Bond works; community has agreed
22 to make the improvements. If the Bonds are approved a second time, then
23 the tax funds from the City do not increase. The City is pursuing additional
24 GO Bond programming, and will create an information tree will be created for
25 the public so the information can get out to the community. The next steps
26 include public awareness and input until April. From May through July will
27 bring the information and projects to City Council for approval to move
28 forward, and how the question is placed on the ballot. In August, the
29 questions will be presented to Doña Ana County Clerk to be placed on the
30 ballot with voting on November 8th. The eastside recreation center was
31 phased and it is anticipated to be one of the projects for the second phase
32 to build streets and infrastructure. There were other projects proposed in
33 2018 that were not approved at the time which will be part of the current
34 public input.

35
36 There was discussion on how bonding works; it's a dedicated funding
37 source on specific projects. The City has certain obligations to pay the
38 bonds on time. The bond is a debt which is paid for by future taxes. When
39 there is a big project which will be an asset to the City for a long period of
40 time, therefore it is easier to get them constructed and available for public
41 and the Bonds give the ability to do that. This round of GO Bond is renewal
42 so there won't be an increase in property taxes from the City. Less than a
43 quarter of property taxes come to the City of Las Cruces, but for other
44 entities taxes are their main source of operating income (Doña Ana County
45 and Las Cruces Public Schools). There was additional explanation on how
46 the GO Bond and taxes works. GO Bond can only be spent on the specific
47 projects voted on.
48

1 There was discussion on how much more expensive projects are now as
2 compared to 2018; some ARPA funds had to be used to offset the increase.
3 The City website has a page for the GO Bond which shows the amount
4 spent on each project as well as the percentage done. There was
5 discussion of a preliminary list of projects the consultants will use for
6 scoping; the project list from projects not approved in 2018 will be used as
7 well as some of the actions from Elevate Las Cruces. There was discussion
8 on previous public meetings; wished for larger projects. There should be a
9 preliminary list in mid-February that will be shared with anyone interested.

10
11 In 2018 the bonding program was more modest in the amount of
12 approximately \$10 million, but the public requested larger projects be
13 proposed and so GO Bond of \$32 million was proposed. This current cycle
14 is set to raise about \$23 million.

15
16 It was asked if workforce housing or affordable housing would be included
17 in the GO Bond list. Although that is a topic that has come up, GO Bonds
18 are general capital projects and that would have to be looked into on how
19 that would meet the parameters of the GO Bond. The City is aware of the
20 issues with housing and is putting time and energy into it. It was mentioned
21 that other communities in New Mexico have used GO Bonds for housing
22 projects and the City of Las Cruces will work with the consultants and staff
23 to scope those projects to meet the requirements of GO Bonds. The City
24 does not to own and operate affordable housing so more than likely the City
25 will go out for an affordable housing developer, there are currently five
26 developers the City has relationships with.

27
28 **b. Uniform Housing Code and Income Discrimination Policy:** The
29 preliminary draft of Chapter 13 of the Fair Housing Code for source of
30 income was shown, and still needs legal department to go over certain
31 items. There's question as to whether it would be best in the fair housing
32 code or human rights code. Boulder, Colorado has it in the fair housing
33 code. A legislative draft was done with source of income in the definitions.
34 Also anywhere it stated discrimination of sale or rental housing source of
35 income was added for protected actions. Some items on enforcement have
36 not been revised yet as additional guidance from legal department is
37 needed.

38
39 Discrimination by source of income was explained, landlords cannot
40 discriminate against how tenants pay their rent, such as with vouchers, or
41 assistance through a third party. The preliminary draft also included child
42 support. Next steps may include analyzing other states besides Boulder,
43 Colorado to make sure the correct wording is used.

44
45 There is a publication with every anti-discrimination policy in the country and
46 the City staff is going through. New Mexico is one of roughly 19 states
47 which do not have a state provision that prohibits this discrimination;
48 therefore we are not able to rely on state law. Las Cruces is the first City in

1 the state to enact this type of anti-discrimination policy. The Civil Rights Act
2 must also be considered also as landlords do have property rights.

3
4 There was discussion on how to enforce this code. If it's through a regular
5 City ordinance the maximum penalty can be \$500.00 fine or petty
6 misdemeanor. Municipal Court does not have injunctive relief which means
7 a penalty assessment/citation can only be done. If it's enforced through a
8 civil nuisance abatement then it would go through District Court. It is
9 uncertain if this type of discrimination would fit under a nuisance abatement.
10 Another option is to do similar to the state's Human Rights Act. The City of
11 Albuquerque reached out to evaluate this potential ordinance as well.

12
13 There was discussion on how difficult it will be to enforce this code, possibly
14 through the New Mexico Human Rights Act discrimination provision. There
15 was discussion on how other discriminations are enforced in regards to
16 housing; some are protected federally and some state. Las Cruces is one
17 of the few municipalities that has a comprehensive fair housing ordinance,
18 which includes federal and state protections. Federal law does not include
19 financial discrimination in their laws as protected. When someone says they
20 were discriminated against there is a process which takes them to the
21 federal hotline and staff helps them fill out forms. City staff is trained on fair
22 housing and will provide information and help and refer persons to HUD if
23 necessary. The City keeps a list of any landlord/tenant issues, and if they
24 were referred to HUD.

25
26 HUD investigations take several years and are published every year.
27 During the City's analysis of impediments to fair housing, choice, the
28 consultants pulled the data from HUD field office and go through the
29 complaints. There are actions staff takes for further form fair housing within
30 the City as well, trainings for employees, trainings in the public. Fair
31 Housing money is used to purchase New Mexico Legal Aid Books to give
32 to people who need it. Every year utility mail outs are done and this year
33 there will be bus posters. Fair Housing Assistance Program staff has come
34 out to do training. In implementing income discrimination ordinance, we will
35 want to outreach to the surrounding states to train the codes officers on the
36 investigatory process.

37
38 There was suggestion of having a fund attached to this code to support
39 landlords in the event of property being damaged or tenants not having the
40 means to pay for it. There is a pilot program being done by a nonprofit who
41 have applied for housing incentive for risk mitigation and landlord incentive
42 program; applied through ARPA. The Housing Authority has a landlord
43 incentive plan that they are trying to implement as part of special funding
44 through other allocations. There was discussion of having Gap financing to
45 help people with vouchers who don't have the additional amount per month
46 for rent but the landlord is willing to take the client but need that extra dollar
47 coverage above the voucher. The anti-donation policy was brought up and
48 possibly working with the housing authority who have already income

1 qualified with the vouchers.

2
3 There was discussion on doing a feasibility study anytime something is
4 being considered for implementation in order to find the resources for
5 enforcement. A state law would make it easier to enforce. It was presented
6 at last year's legislature and the Apartment Association fought it quite hard
7 and that piece was removed from the bill in order to move forward with the
8 other issues. Which was House Bill 111. There was discussion of having
9 more advocacy at state level. Nicole Martinez stated her interest in having
10 this go forward at the state level and keeping it in front of the City of Las
11 Cruces, and her willingness to help.

12
13 There was discussion of how a person can use the voucher; rent needs to
14 be the same or less than the voucher which also includes utilities. FMR has
15 not caught up to what COVID has done to the housing market which makes
16 the vouchers less than needed. The MFA State Housing is working on a
17 strategic plan/unified strategy to address this issue. There is supposed to
18 be a statewide plan to address the housing prices which will give
19 municipalities a uniform direction. There was discussion on a timeline to
20 move forward with a feasibility study and that timeline would be dependent
21 on the volume of information provided. In speaking on indigency, are there
22 other incentives to write into an ordinance for that type of housing. Natalie
23 Green will send out a list of the Housing Bills that are in the different state
24 committees, to this board.

25
26 Another issue with landlords is they could potentially be unwilling to keep
27 the housing up to the standards for accepting vouchers. A potential
28 landlord/tenant law has been discussed before but hasn't moved forward.
29 A potential incentive could be put in place to help landlords meet that need
30 financially bringing properties up to code. Housing Authority has roughly
31 1,200 vouchers out; Community of Hope, La Casa, and the City have a few
32 hundred more. Community of Hope technically has 290 vouchers but they
33 house more people than that as some people get jobs and are able to help
34 subsidize the rent, so closer to 800 people they help.

35
36 The Uniform Housing Code has been reviewed multiple times and the
37 biggest hurdle currently is the administrative component; the administrative
38 component is more with the nuisance abatement side. A draft ordinance
39 was drafted in 2017/2018 and the purpose is to provide minimum standards
40 to safeguard life or limb, health, property, and public welfare by regulating
41 and controlling the occupancy levels and maintenance of all residential,
42 nonresidential buildings and structures within this jurisdiction, current
43 housing standards are incorporated. City is not creating anything new; this
44 is the codes that already exist that are then put into an ordinance that will
45 allow the City to enforce. Larry Nichols will need to do some updating as
46 it's been a couple of years since it was last reviewed.

47
48 The provision of declaring something as a substandard unit needs to be

1 discussed. If you determine a building is substandard, then do you relocate
2 the people? How do you relocate the people? Do you fund that? And how
3 to fund that? There has to be a notice requirement. The nuisance
4 abatement allows the City to declare a building a nuisance if the standards
5 are not met, in other declaring it a public threat of danger to citizens, and
6 enforce the needed changes. Albuquerque handles theirs with multiple
7 departments involved, police, planning, fire, legal, and family community
8 services. The function of that division in Albuquerque was to enforce the
9 City's nuisance abatement ordinance with various housing codes, fire
10 codes, and safety codes, and to identify commercial or residential properties
11 that became a nuisance as a result of crime or code violations. There are
12 two different types of nuisance: **nuisance per se** is whereby virtue what is
13 occurring in this building which is a nuisance (i.e. a meth lab), and **nuisance**
14 **in fact** is a building that is a nuisance by virtue of it violating all of the codes
15 and it is dangerous.

16
17 Declaring a nuisance is a long process. There was discussion on the
18 breakdown; file a civil complaint through District Court under Chapter 3 of
19 New Mexico statutes. It is a civil complaint filed in District Court which is a
20 five count complaint. Count one seeks to have the property declared a
21 public nuisance under state statute; count two seeks to have property
22 declared a public nuisance under the City ordinance; count three seeks to
23 have property declared in violation of City codes, for housing or zoning and
24 this is where the Uniform Housing Codes would come in; count four seeks
25 injunctive relief to allow the City to enter the property, evict the tenants, and
26 secure property with board-up or fence, the City does not take the title to
27 the property or issue fines, just asking the court to fix this problem. The
28 City can attempt to receive attorney fees and can potentially recover costs
29 if the City abated the nuisance. Several state laws in Chapter 30 under the
30 state nuisance laws allow the City to do this which are under housing code
31 provisions and under health code provisions.

32
33 Property owners must be afforded the maximum amount of due process.
34 Attorney Vega-Brown has preference for multiple opportunities for due
35 process, first a predetermination hearing, then an administrative hearing,
36 and then District Court. Usually dealing with people who do not have
37 attorneys, have never been exposed to legal process at all, and people who
38 are having trouble maintaining their residence, so they do not have a lot of
39 money often times.

40
41 Previously the City would declare something a nuisance, but would not
42 declare in City Council which is the mechanism or the City Manager. We
43 have ordinances and state law that allows the City Manager to declare
44 something a nuisance, but once that is done the City has to provide notice
45 and within 10 days that has to be heard before City Council. Or City Council
46 can declare it a public nuisance through an ordinance which is the due
47 process as it is a hearing. In times past the City has placed a lien on a
48 property for expense and cost of cleaning a property up. This has sometime

1 led to foreclosing on the lien and the City obtaining the property.
2 Albuquerque was mentioned having an entire office with multiple hearing
3 officers and additional staff and the processes. It would be best to have an
4 administrative level prior to going to District Court as the court would tend
5 to ask the parties to try and work it out themselves anyway. An
6 administrative level also ensures that there is some predetermination for
7 probable cause to do this in District Court. The biggest part is the
8 administrative process and how that will occur, and how to fund. Also the
9 remediation, how will it be funded through the City. Finally relocating
10 individuals and how to fund that.
11

12 There was discussion on why it's taking so long to move forward; question
13 as to whether staff doesn't want this to happen and if that might be due to
14 funding and those mechanisms. The Board would like to hear what the
15 barriers and gaps are from staff to move this code and policy forward. A
16 consultant was hired to update the Development Code; could this be an
17 additional item the consultant could look at. Code officers have also been
18 complaining that their hands are tied and can't do anything. There was
19 discussion on the hardship to enforce in the City due to no mechanism in
20 place.
21

22 There was discussion on next steps; cost analysis, draft ordinance, decide
23 what department it lives in, go to the City Manager to request needed staff,
24 and etc. The Board would like a budget estimate by the 22nd as the City is
25 going into budget meetings. There was discussion of unintended
26 consequences of displacement of people. There was discussion on
27 minimum room sizes in the draft which would significantly affect housing
28 and exacerbate the affordable housing more. The most updated draft will
29 be resent so the Board can make notes to discuss next month as an action
30 item.
31

32 **8. Future Items for Review:**

33 **a. Next Meeting Date February 16, 2022:**

34
35 **9. Future Agency Spotlights:**

36
37 **10. Adjournment: Motion to adjourn the meeting by Board Member Flores, and**
38 **seconded by Board Member Gandara. The meeting adjourned at**
39 **approximately 3:31 p.m.**
40

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44 
45 _____
46 Chairperson
47
48

1 Approved: _____