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

Members Present:
- Kasandra Gandara, City Council
- Johana Bencomo, City Council
- Yvonne Flores, City Council
- Benjamin Beard, Las Cruces Home Builders Association

Members Absent:
- Sonja Unrue, NM Mortgage Finance Authority
- Juan Olvera, Mesilla Valley Public Housing Authority

Others Present:
- Natalie Green, Housing Neighborhood Service Manager
- Jan Lauterbach, Housing Development Coordinator
- David Weir, Department Director Community Planning
- Kevin Wilson, Housing Development Coordinator
- Jennifer Vega-Brown, City Attorney
- Sergio Ruiz, Policy Analyst
- Beth Bardwell, League of Women Voters
- Nicole Martinez, Director, Mesilla Valley Community of Hope
- Monique Lopez, Housing Resilience Leaders
- Becky Baum, RC Creations, Transcription

1. Call to Order: Chair Bencomo called the meeting to order at 2:06.

2. Introductions: General introductions were made.

3. Conflict of Interest: No conflict of interest was proclaimed.

4. Acceptance of the Agenda:

5. Minutes for Approval:
   a. Housing PRC Meeting of October 20, 2021: Motion to accept the Minutes by Board Member Gandara, seconded by Board Member Flores. Motion passes.

6. Action Items: None.

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

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

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

There was discussion on how bonding works; it's a dedicated funding
source on specific projects. The City has certain obligations to pay the
bonds on time. The bond is a debt which is paid for by future taxes. When
there is a big project which will be an asset to the City for a long period of
time, therefore it is easier to get them constructed and available for public
and the Bonds give the ability to do that. This round of GO Bond is renewal
so there won't be an increase in property taxes from the City. Less than a
quarter of property taxes come to the City of Las Cruces, but for other
entities taxes are their main source of operating income (Doña Ana County
and Las Cruces Public Schools). There was additional explanation on how
the GO Bond and taxes works. GO Bond can only be spent on the specific
projects voted on.
There was discussion on how much more expensive projects are now as compared to 2018; some ARPA funds had to be used to offset the increase. The City website has a page for the GO Bond which shows the amount spent on each project as well as the percentage done. There was discussion of a preliminary list of projects the consultants will use for scoping; the project list from projects not approved in 2018 will be used as well as some of the actions from Elevate Las Cruces. There was discussion on previous public meetings; wished for larger projects. There should be a preliminary list in mid-February that will be shared with anyone interested.

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

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

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

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

There is a publication with every anti-discrimination policy in the country and the City staff is going through. New Mexico is one of roughly 19 states which do not have a state provision that prohibits this discrimination; therefore we are not able to rely on state law. Las Cruces is the first City in
the state to enact this type of anti-discrimination policy. The Civil Rights Act must also be considered also as landlords do have property rights.

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

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

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

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

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

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

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

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

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

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

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

Previously the City would declare something a nuisance, but would not declare in City Council which is the mechanism or the City Manager. We have ordinances and state law that allows the City Manager to declare something a nuisance, but once that is done the City has to provide notice and within 10 days that has to be heard before City Council. Or City Council can declare it a public nuisance through an ordinance which is the due process as it is a hearing. In times past the City has placed a lien on a property for expense and cost of cleaning a property up. This has sometime
led to foreclosing on the lien and the City obtaining the property. Albuquerque was mentioned having an entire office with multiple hearing officers and additional staff and the processes. It would be best to have an administrative level prior to going to District Court as the court would tend to ask the parties to try and work it out themselves anyway. An administrative level also ensures that there is some predetermination for probable cause to do this in District Court. The biggest part is the administrative process and how that will occur, and how to fund. Also the remediation, how will it be funded through the City. Finally relocating individuals and how to fund that.

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

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

8. Future Items for Review:
   a. Next Meeting Date February 16, 2022:

9. Future Agency Spotlights:

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

Chairperson
Approved: ____________________