

**Capital Improvements Advisory Committee**

Minutes for the Meeting on  
October 21, 2021  
1:30 p.m.  
Utilities Center  
Board Room 225

**Committee Members Present:**

Mark O'Neill, Committee Member  
Adam Roberts, Committee Member  
Don Curnutt, Committee Member

**Committee Members Absent:**

Jason Lorenz, Chairman  
Steve Newby, Committee Member

**City Staff Present:**

Denise Alejandre, Office Assistant Senior  
Liam Beasley, Finance Accountant  
Ronald Borunda, Interim Deputy Director  
Water  
Paul Brock, Police Deputy Chief  
Robert Cabello, Deputy City Attorney  
Catherine Mathews, Landscape Architect  
Meei Montoya, Operations Engineer  
Robert Nunez, Recreation Services  
Administrator  
Jose Provencio, Deputy Director Business  
Services  
Breanna Rodriguez, Administrative Assistant  
Christine Rivera, City Clerk  
Jacqueline Rubalcava, Finance  
Alma Ruiz, Senior Officer Manager  
Delilah Walsh, Utilities Director

**Others:**

Becky Baum, RC Creations, LLC  
Greg Shervanick, Constituent  
Cassie McClure, Public Outreach Consultant

Vice-Chair O'Neill called the regular meeting to order at approximately 1:30 p.m.

**1. Conflict of Interest:**

Vice-Chair O'Neill: First, I would like to ask if any member on the committee or any member of the City staff has any known Conflict of Interest with any item on the Agenda.

**There were none.**

**2. Acceptance of the Agenda:**

Vice-Chair O'Neill: We will move forward to Accept the Agenda that we all received.

Curnutt: I move that we Accept the Agenda as written.

Vice-Chair O'Neill: Okay.

Roberts: Second.

## **The Agenda was Accepted Unanimously 3-0.**

### **3. Acceptance of the Minutes:**

#### **A. Regular Meeting on September 16, 2021.**

Vice-Chair O'Neill: Now, looking to the Minutes. Does any member of the committee have any amendments or changes in the Minutes?

Curnutt: I have no additions or corrections.

Roberts: I have none.

Curnutt: I move that we Accept the Agenda.

Vice-Chair O'Neill: Before we do, I would like to look at page 13. Someone got involved with Mr. Clark and I's discussion, and I do not know who it was, and his name is cholesterol, in the middle of the page, page 13. Cholesterol, I did not know who that was. I wanted clarification. Just kidding. Anyway, I am sure that will be corrected.

Ruiz: Chairman, Committee Members. Alma Ruiz, Senior Office Manager, for the record. I will listen to that recording again and we will correct it administratively. Thank you.

Vice-Chair O'Neill: I just thought it was a typo. This meeting gets pretty serious sometimes so got to add a little light. Do I hear a Motion to Accept?

Curnutt: I will make a Motion to Accept as corrected.

Vice-Chair O'Neill: As corrected. Do I have a second?

Roberts: Second.

## **The Minutes were Approved Unanimously 3-0.**

### **4. Old Business:**

#### **A. CIAC Roles and Responsibilities Overview:**

Vice-Chair O'Neill: Some Old Business we will start with, and it is all outlined in your book. Mr. Robert Cabello. As far as the CIAC Roles and Responsibilities overview. Also Item B, Open Meetings Act Overview. I think it is always good for us to discuss at least once a year, especially as we get new members to our Board.

Cabello: My name is Robert Cabello, Deputy City Attorney. I am going to give a small presentation on the Capital Improvements Advisory Committee (CIAC). It is a standard Board as defined by the City's (Las Cruces) Municipal Code, Section 2-186. Let me just give some background about this. When I first did this presentation, I created this presentation, I guess we had an older presentation, I could not find that. This information on this slide is going to be repeated twice, but I think it is good for review because this slide information comes

directly from material that was on the City's website. Then I will go over the actual just purpose under our statutory code. This is actually repeated by statute and by our municipal code. Essentially the CIAC advises, it assist the City in adopting land use assumptions. It includes a description of the service area. It talks about the projection of changes that happened in intensities, densities, uses, and the population for the area for at least five years. It also reviews the Capital Improvement Plan, which in this case identifies facilities for expansion and improvement infrastructure projects, which assessment fees can be charged or assessed. It also creates and reports on the capital improvement plan and any sort of perceived inequalities implementing the plan or assessing impact fees.

Now, the CIAC was established really by mandate. The development fees act in 5-8-37(A) mandates that the City create this. Of course the City Council adopted in '93, but with orders 1335, this body. The real reason for that is it is not that the City was not handling this, it did have its own body and we will kind of go over that briefly. It is just that for a lot of the state different to other towns and other communities, handled the sort of how impact fees were assessed, and let us just say an opaque manner or maybe manners that were not so open to the public, so the people did not necessarily understand why they were being assessed certain things with fees. It was sort of controlled by certain industries in those communities. Statewide, the state legislature said we are doing it this way, this is how cities are going to do it, period. Prior to that the CIAC we had a...

Vice-Chair O'Neill: Excuse me. Also this Board is, all cities in New Mexico have a similar Board?

Cabello: They have to.

Vice-Chair O'Neill: It is mandated?

Cabello: It is mandated.

Walsh: If you have impact fees.

Cabello: Yes, if you have impact fees. There are certain communities that do not but if you have impact fees, you need to have this, and this is by Section NMSA 5-8-37(A) mandates that.

Vice-Chair O'Neill: Thank you.

Cabello: Prior to that we had a Utility Policy Review Committee, it was a three Board, non-City staff member Board. Again there was transparency in that process. The other two sections in two, LCMC Section 2-515 through 16 really deal with the transitioning of these members to sort of the modern sort of CIAC process that we have now.

Composition. The composition requirements are very similar to our *Ordinance* LCMC Section 2-517 and what's required by state statute, NMSA 5-8-37(B). It requires that the CIAC have five members, they cannot be a City employee. It has a 40% rule and essentially that no more than two of the five members must be representatives of the real estate, development, building industries, including businesses that finance, underwrite, or lend money to real estate development or building purposes. The purpose of that was so that the developers, and I will be honest, legislatures did not want developers to have entire control of how these impact fees were going to be assessed. That's it. Again, certain communities, not here, with how you know impact fees are assessed could affect how certain industries are favored or disfavored and so they wanted a general playing ground, because there were other problems for other communities.

Then there is the general requirements of municipal code for standard Boards LCMC, Section 2-188. These are central like requirements that the members be residents of the City, that they cannot be immediate family members of Councilors and the Mayor. I am thinking there is another one and I cannot think of it. It will come to me. I will circle back. Okay.

Vice-Chair O'Neill: Can they be members of the county, employees of the county on this Board, or no?

Cabello: Employees of the county?

Vice-Chair O'Neill: Yes, that is only, I know you are restricted from City employees, but I am just wondering about county.

Cabello: Potentially you could have a county member because it's not prohibited by ordinance and/or statute. I just never thought of that question. Okay, so according to our general sort of Rules of Procedure under municipal code, Section 2-189. The first business that you have to elect of course your chair, your Vice-Chair, the other officers that you need. Business is conducted of course according to that section by the revised Robert's Rules of Order Revised Edition. Of course and most importantly that the CIAC follows the Open Meetings Act. Of course, I am going to cover that later in another presentation what that entails. Essentially, it is part of that these meetings be open to the public, they be transparent, that people are given notice, the public is given notice of what is going to be spoken about or acted upon. Also, a part of requirement by the ordinance that this Board meets at least four times a year, and that the City Clerk makes the minutes available to both City Council and the public.

These are some just general rules of conduct of professionalism in general but the conduct of members that are required is to be respectful of City Council, staff, applicants, and others. Never mislead the public. Never delay or obstruct for malicious reasons. Maintain confidential information, like you do not use it for your own personal benefit or spread that information around. Perform

duties with integrity and competence. Refrain from making comments to the City Council in support or opposition of a decision by CIAC unless requested by Council.

Vice-Chair O'Neill: We have run across that.

Cabello: Duties. Again, these duties, which I have spoken about before, I am going to repeat them. It is also reflected in NMSA 5-8-37(C). The duty is to advise the City and adopt the land use assumptions, which include a description of the service area, projections of changes in land uses, densities, intensities, and the population over at least five years. To review the capital improvement plan, again identifying those facilities for expansion and capital improvement projects, for which impact fees may be assessed. Monitor and evaluate the improvement plan for progress, like where are we at as far as the building of where the projects are. Advise the City, need to update land use assumptions, capital improvement plan, or impact fees. Of course advise the City on management growth strategies. Are there any questions?

Vice-Chair O'Neill: Does the committee have a question for Mr. Cabello?

Cabello: I'm just going to go ahead and go to Open Meetings Act.

Vice-Chair O'Neill: Before you move on. I do have a comment for the benefit of those attending. Is that our Board is, we have a full Board now here. We do have two members from the development community. You are one of them, right? Mr. Roberts?

Roberts: That is Mr. Newby.

Vice-Chair O'Neill: Mr. Newby is and also our Chairman, Mr. Lorenz, are the two that represent that, and the rest are community members, general community.

Cabello: City Clerk, Christina Rivera, reminded me, the thing that I was thinking about as far as the general qualification's membership. If you are a member of a standard Board, you cannot serve on another Board. I knew it was something in my head.

Vice-Chair O'Neill: No other City Board you are talking about.

Cabello: Yes. I mean if you serve for a county Board.

Vice-Chair O'Neill: Okay. Thank you.

### **B. Open Meetings Act Overview:**

Cabello: The next, Open Meetings Act (OMA), NMSA 10-15-1 to 10-15-4, the Sunshine Law. It is a transparency law. Along with the Inspection of Public Records Act, which we are not talking about today. Essentially, Sunshine Laws require that public business, because that's what City business is, is conducted in full view of the public, whether it is the deliberations, or the actions taken by the body

and that is based off the Attorney General's compliance guide. What does it really require? It requires that whenever there is a quorum of the members of a body, commission, administrative adjudicatory body, or other policymaking body, when there is a, that the public's business is spoken about or deliberated in public. That includes whenever you are formulating public policy, so you are not necessarily taking an action, just talking about it. Developing personnel rules, regulations, or ordinances, discussions of public business, again just deliberating an issue, policy, not actually taking the action. Of course, taking any action within the authority of the Board. What this really means is I want you to think about if you know if it is something that is not an authority of the Board and you are all together as a quorum and it is like something that is not part of the Board, like what you guys are going to have for lunch, right. I know it is a silly example, that does not necessarily have to be required to be open to the public. We are talking about stuff that is within your authority. Just to give you a slight idea.

Now what does the OMA require? Basically any sort of body or Board, so this committee, Boards, committees that are delegated, any sort of a delegated authority, body, or advisory committee that again they have to be open to the public and follow the Open Meetings Act. The Open Meetings Act prohibits members from conferring privately during meetings and so this means if you have cell phones, everybody has cell phones, and there is an issue being discussed, you cannot start texting about the issue to each other. I like this applicant. I do not like this decision or policy or whatever it is, or I like it a lot. All those deliberations have to be done in public. Again it is the public's right to know.

Now so in meetings the public is permitted to record. I know that there is a lot of recording now, we all have phones, and it is real easy to get really high-quality videos and stuff. You can be recorded. It permits that. What the OMA and people get this confused a lot, the Open Meetings Act does not require that the public speak. Those are decisions made by the chairs of the governing bodies. As a side note, if you are going to let people speak, public start speaking, I suggest you know you can do things like time limits, as long as you know that everybody in the public is given same amount of time.

Now notice requirements under OMA. Basically that the Agenda has to list the specific items with information that has enough specificity for the public to identify what the issues being discussed. I will give you an example again, City Council, if you go to their Agendas, you can see the discussion item. There is a whole executive, you know council action executive discussion about the background, about the potential like whether it is a resolution or ordinance. Then it actually has the ordinance and has a bunch of background attached information, documents, and sometimes there are hundreds of pages or thousand, I mean they can be quite big.

Okay, in emergency cases, which is somewhat of a different case, but 72 hours are required notice for Agendas have to be posted for the public body or the

public body website. It's also very important, this is very important, only the items that are posted on the Agenda are the items that are allowed to be discussed. We cannot all of a sudden start adding stuff to it, because then the public was noticed about that. The people that are interested in the other issue that wasn't noticed would not have reasonable reason to be there to be part of that discussion to hear it.

Vice-Chair O'Neill: That would be only our discussion as a committee, but there is the public participation doesn't have to be items on the Agenda right.

Cabello: I mean the public participants can discuss almost anything. The thing is to sort of fight the temptation to really get into that discussion topic, because sometimes it is controversial, or it is important, or it can be inflammatory. The best point is just to listen.

Vice-Chair O'Neill: Right.

Cabello: You can even tell people that you know, just so you know, you can tell us whatever you want to tell us, but that is not either ...

Vice-Chair O'Neill: It is not a back and forth.

Cabello: That is not a thing that is up on today's discussion. This is not the right Board, sometimes that is the case. You need to go to this committee or this body or even the county sometimes. It also is part of like this sort of being public information or being open to the public. What is important is of course the record of the meetings. Hence, the Open Meetings Act requires that the minutes have certain minimal standards of day, time, and meeting, the name of the members in attendance and who was absent, and again the substance of the proposals considered. Minutes don't have to be verbatim, sometimes they are for certain committees, but they do not have to be. They just have to have a good substance of the discussion points that are being discussed. You do not have to have them verbatim. It has to have a record of decisions or votes, or actions taken by each and how each member voted. It is not just important, well a certain proposal won, you need to make sure how every member of the committee voted, for or against something or they abstain.

Again, these minutes are open to the inspection of Public Records Act. Draft minutes have to be prepared within 10 working days. I mean, this way is the public, even before they become official or accepted, 10 working days they had to be open to the public. Whether you know the media wants to see kind of the basis of discussion or just the public, whatever, it is open to the public, has to be open.

Rolling quorums.

Curnutt: On the 10th day, 10 working days on the minutes, once the minutes are generated that 10th day prior to or day 10, are they then required to be posted

somewhere or just prepared so that if somebody wants access to them, they have to request access to them?

Cabello: I think they have to be...I will ask Christine [Rivera].

Vice-Chair O'Neill: Posted on the website are not they?

Cabello: I do not think they are posted until they are actually accepted.

Vice-Chair O'Neill: No, I know they have to be approved first.

Rivera: They just need to be available to the public. If that is just in the office, then that is sufficient. They do not need to be posted anywhere actually accordingly to OMA. Even when they are approved, they do not need to be posted, it just needs to be available somehow.

Vice-Chair O'Neill: Currently they are not put on the website, the minutes.

Rivera: Yes, I believe Alma puts them on the website. She is coming.

Vice-Chair O'Neill: Yes, I thought they were.

Ruiz: Good afternoon Chairman, Commissioners. Alma Ruiz, Senior Office Manager for the record. It is our standard practice that as we have a draft minutes available, we do put them on to CivicPlus. They do say the word draft on it. Once the minutes are then approved, we then switch them out with the signed minutes for that respective month posted on CivicPlus, which is our Agenda center that anybody can access.

Vice-Chair O'Neill: One question while you are here.

Ruiz: Sure.

Vice-Chair O'Neill: Let us say we do not have a meeting the following month and so does it take till the next meeting to have them approved?

Ruiz: Correct.

Vice-Chair O'Neill: Posted, or it is not approved in the meantime.

Ruiz: Correct. They will stay up on the website as draft. The Board as a body has to approve them before they become approved. Vote on them before they get approved. Thank you

Vice-Chair O'Neill: Okay. I understand. While you are up there since we are on this topic. Currently I know that as long as I have been on the Board, which is I guess going on about four years, they have been doing the minutes verbatim.

Ruiz: Correct.

Vice-Chair O'Neill: That is why we did this big book here. We are not required to do that, and I do not have a problem if they want to, I know that things have to be verbatim when it comes down to a proposal or we are acting on something, and that has to be word for word, maybe on the presentations the same thing. As far as every conversation and every word, I am okay with it if the Board is, that it does not have to be completely verbatim, but maybe there is a reason you do that and you want to continue doing it that way.

Ruiz: Alma Ruiz, Senior Office Manager for the record. There is a reason. There was several years back before you were on the Board, the Chair actually proposed verbatim minutes. There was a situation in time where there was a comment. We originally did not use verbatim minutes. We used to do summarized minutes...

Vice-Chair O'Neill: Well, we did on the Parks and Rec. too

Ruiz: ...then after, there was something that we could not go back to in the minutes to find. This Committee voted and verbatim minutes became effective going forward after that. If this group of members wants to revisit that, then that could be brought into an action that the committee could take and then you can vote on that as well.

Vice-Chair O'Neill: Well, I guess we could discuss it at a future meeting when the whole Board is here and see. If it could create an issue where like you said you went back and could not find it and it created a situation, then maybe that is what we want to stick with.

Ruiz: Okay. Thank you.

Cabello: Rolling quorums. Going over that. A rolling quorum is really any quorum that you have were the members of the quorum are not in the same place and time together. Essentially OMA basically prohibits that. In other words, if you have a quorum of members, you cannot deliberate on an action item through text messages, through e-mails, through phone calls, you cannot even do a mixed sort of situation where one person calls another person, another member decides to e-mail another person, another person starts to text, and that will come up to a deliberation. Again, deliberations need to be in front of the public body.

Vice-Chair O'Neill: That is only a quorum, or you need two members?

Cabello: That is a rolling quorum.

Vice-Chair O'Neill: Two members can discuss something together? two members?

Cabello: I would not suggest it.

Vice-Chair O'Neill: Okay.

Cabello: I would really, highly advise against it. Because say less than a quorum does it, then it is easier for it to happen.

Vice-Chair O'Neill: It's Better not to.

Cabello: Then all of a sudden, you can now have other issues. Going over this, when you violate the Open Meetings Act, it is a petty misdemeanor crime. Now, realistically the people that really prosecute this generally is the Attorney General. The DAs office can do it. When I was an ADA for about five and a half years, never had a case. It is unlikely that you would get prosecuted for it, but it is a crime. More importantly when you violate the Open Meetings Act, and I had this discussion with another attorney, and they called it a technical rule. Reality is it actually invalidates the action. Meaning the action is essentially invalid. The point is do not violate the Open Meetings Act.

Vice-Chair O'Neill: Well that, but that pertains to business on the committee, committee business.

Cabello: Yes. I mean, like a quorum gets together again decide what are you guys going to have for lunch. That is not within the power of the authority of the Board. You guys can have lunch. Again, with government, always with government, and people know when there is an appearance of things, it is always good to be open with what you are doing and discussing. I mean I just advising how the public can perceive certain things.

Vice-Chair O'Neill: Sure.

Cabello: Actually, how I was going to end this is, I did not really create, I created part of this presentation based off someone else's. This really does just talk about case law, it was kind for a different audience, but I will say this. Without going over case law, it is kind of boring and dry. If you will indulge me, I want you to think about why transparency is important for democracy. Seriously. Think about authoritarian governments for just a moment. People think of authoritarian governments usually associated with secret police and the military controlling people. That is true, very true. It is more than just that. Whatever, if it is North Korea, or Saddam Husain's Iraq, one of the things that you have is that things are done in secret, all policy. It is how contracts are made, how money is assigned, where money goes.

In countries like again, authoritarian governments, you will have like a few families that own almost all, 90% of the industry, they can also control 90% of what is imported and exported. Those families of course get wealthy under that type of regime, and of course they support that regime. It is not just done by police; you know you have got to pay the military something. The point is, is that why transparency is important, because again it is part of democracy. The public being able to see how the machinery government works. With that, questions?

Vice-Chair O'Neill: Committee have any other questions? I would like to point out and thank our staff for doing such a great job of complying with the Open Meeting Act, making sure there is notices, so on and so forth. Thank you for the good work you do. Thank you for your presentation.

**5. New Business:**

**A. Utilities FY21 End-of-Year Financial Review:**

Vice-Chair O'Neill: Next item on the Agenda is Utilities for Year 2021 End-of-Year Financial Review by Jose Provencio.

Provencio: Good afternoon Chairman, Committee Members. Jose Provencio, Deputy Director of Business Services for the Utilities Department. My presentation presents the yearend summary Fiscal Year 2021 of the revenue collected for Water and Wastewater Impact Fees. Slide number two and three are closely related in terms of the monthly revenue collected by each of the three segments of the Impact Fees, which is the builder, developer, customer, and rate base. Slide three presents the same information on a monthly basis for Wastewater activity in the financials. Slide four presents the historic comparison in terms of revenue activity for Impact Fees. Not surprisingly, the last two fiscal years has shown the impact of the strong construction in our City and the growth.

Same information is presented on slide five for Wastewater. The same information is presented in tabular form on slide six which is for the Fiscal Year, and then at least the previous year for direct comparison for Water, Wastewater Development Impact Fees. This would be the beginning and ending balances and the activity booked for the fiscal year. It provides a little bit more detail, Water and Wastewater. That summarizes the fiscal year financials, and I will stand by for any questions you may have.

Vice-Chair O'Neill: Well, that is the quickest presentation you have ever made.

Provencio: It is a little late.

Vice-Chair O'Neill: Thank you. Any questions?

Provencio: Better presented and summarized. I know we had, there was cancellations, but we just wanted to round out Fiscal Years 2021's report so that you have it in hand.

Vice-Chair O'Neill: Thank you. Sure. Good detail there for us. All right. No questions. Thank you.

Provencio: You are welcome.

**B. Parks and Recreation FY21 End-of-Year Financial Review:**

Vice-Chair O'Neill: Item B under five under New Business is Parks and Recreation Year 2021 End-of-Year Financial Review by Liam Beasley. I do not think he is here. There he is.

Beasley:

Good afternoon Chairman, Members of the Board. My name is Liam Beasley. I'm an Accountant with the City of Las Cruces Finance Department. We are going to go over the Park Development Impact Fees for June 30 for Fiscal Year 2021. On the first slide we have the month-to-month revenues and expenditures. In June we had \$285,000.00 of Park Impact Fee revenues, and most of the expenditures occurred in September of 2020, with \$386,000.00. Here is the cumulative amount for the month-to-month revenues and expenditures. By the end of the year there were \$1,867,000.00 in revenues collected, and then the expenditures totaled to \$393,000.00 at the end of the year.

This is a six-year comparison between Fiscal Year 2016 and 2021 for the Park Impact Fees. The ending fund balance at June 30 was \$6,192,000.00. This is up 31% from the previous year. Then compared to Fiscal Year 2020, the revenues were up 23% and the expenditures were down 61%. Then the graph on the left is the month to month six-year comparison for all the Impact Fee revenues. Again, in Fiscal Year 2021, we had about \$1.87 million in revenues compared to just \$1.52 million in Fiscal Year 2020. Then on the right side is the same information but for the expenditures, and this is \$393,000.00 in 2021 compared to \$1,008,000.00 in 2020.

In terms of what the Impact Fees were actually spent on over the course of the year, most of it was \$380,000.00 for a park in Metro Park Village Phase 3. There is also \$6,500.00 for the Highland Community Park Landscape Design, and \$6,000.00 for the Apodaca Park Historical Assessment. Here is the data for Fiscal Year 2021 used to construct the graphs, it is just the same information but in tabular format. Then here is the revenues across the previous six fiscal years, and the year over year change. Then the same information for the expenditures and fund balance and the percent change from year to year for your reference.

Now Impact Fees have a requirement that the construction needs to be completed no later than seven years after the Impact Fees have been collected. However, this can be extended if the City secures a Performance of Obligation to construct, in which case the deadline is extended to no more than seven years from the commencements of the construction. Then the interest earned on Impact Fees that have not been spent is subject to the same seven-year restriction.

As of early October, these are the amounts that still need to be spent that we have collected in the past. In 2018, there is \$1.2 million collected and we have three to four years left to spend on those. In 2019 \$1.6 million collected and we have four to five years on those. In 2020 \$1.5 million collected, five to six years left. In 2021 there is that \$1.867 million and we have six to seven years on those. In the first three months of the current fiscal year it is going to be \$382,000.00, and we have the full seven years.

As requested from last meeting, I will give you just a rundown of some of the planned projects and future projects for Parks and Recreation. Roughly there is about \$2.9 million in projects that will be going through in Fiscal Year 2022, then for future projects past the next fiscal year, it will be about \$9.9 million. We will go into some of the specifics of those projects. This information is courtesy of Parks and Recreation and specifically Catherine Mathews. Apodaca Park is going to have \$750,000.00 from Park Impact Fees. This is going to be half of the project amount; the other half will be coming from a New Mexico State Parks grant. We are still waiting on the executed grant agreement for that. Design is estimated at nine months, bidding at three, and construction at 18 months.

The East Mesa Public Safety Complex Park has \$100,000.00 budgeted from Park Impact Fees and it is currently in the planning phase. The Highland Community Park has \$874,000.00 from Impact Fees. It is currently under design review, which will be about three months, the bidding will be three months, and then the construction will be 18 months, estimated.

There is going to be a few parks in the Metro Verde neighborhood, there are \$620,000.00 from Impact Fees allocated to this. \$325,000.00 was paid at the end of September for the Red Hawk Villas Park.

There are three additional parks estimated to complete between December of 2021 and September of 2022, and two parks under design, which are going to be estimated completion in December of 2022 and June of 2023. The Calle Abuelo Neighborhood Park is going to have \$15,000.00 from Impact Fees. The design and construction is complete, and we are just currently doing the playground installation which is estimated at six months.

There will be \$42,500.00 for the Soldados Multiuse Fields. Then land acquisition, planning and design for various parks is going to be \$500,000.00 from Impact Fees. It is in the planning phase, with design estimated at six months, bidding at three months, and construction at 12 months.

Finally, here are the future projects that are past the next fiscal year in Fiscal Year 2022. For various neighborhood parks, there is going to be about a million dollars coming from Impact Fees, land acquisition \$100,000.00 from Impact Fees, Albert Johnson Electrical Park \$70,000.00 from Impact Fees, and taxes. The Benavidez Community Center Park improvements for \$500,000.00 from grants and Impact Fees. A multiuse rec center for a million dollars from Impact Fees. A baseball/softball complex for a little under \$6 million from bonds, grants, and Impact Fees. Laabs pool shade structure for \$75,000.00 from bonds, grants, and Impact Fees. Then new sand volleyball courts for \$40,000.00, and a waterfalls park for \$1.2 million from both grants and Impact Fees.

I can stand by for any questions you may have on Park Impact Fees.

Vice-Chair O'Neill: I have a few I would like to proceed. Question by the committee.

Curnutt: Yes, I just have, need some enlightenment, I guess. On the FY22 plus years out, you know these budget amounts are programmed up to the seven years of the life of the Impact Fees. Is that correct?

Beasley: These are just future planned projects that are not maybe even in some of the earlier stages.

Curnutt: We do not have; all these projects do not have Impact Fees aligned to them and programmed yes is what you are saying.

Beasley: Mr. Curnutt. No.

Curnutt: Okay. Thank you.

Vice-Chair O'Neill: Questions?

Roberts: I have a question. On the outstanding Impact Fees, slide 11, the earliest that you are showing is 2018. Is that the oldest remaining balance?

Beasley: That is correct. Members of the Board. All of the impact fees collected in 2017 and before have already been fully spent.

Roberts: Okay. We still have plenty of time and then it looks like the \$2.9 will basically eat up most of 2018 and 2019.

Beasley: Right.

Roberts: Okay.

Vice-Chair O'Neill: On these charts on page four seems like a really big difference between your revenue and expenses. I know there is seven years to spend it, but what, this does not include bond and grant money or does it? Does it also or is this only Impact Fees?

Beasley: Chair Member O'Neill. It is only impact fee only Impact Fees.

Vice-Chair O'Neill: Only Impact Fees?

Beasley: Correct.

Vice-Chair O'Neill: That does not include the. I guess my question is this money once spent and there are seven years of spend it or you are still paying down from before, from years before, up to seven years, right with this money?

Beasley: The fund balance shown in the orange bar, that is just the end balance for each of those Fiscal Years. Like the Fiscal Year '16 and '17, those have already been

spent down and we are currently eating into the Fiscal Year '18 fund balance. so but the ending fund balance in 2021 is reflective of that. If that answers your question,

Vice-Chair O'Neill: Does this gap start to close?

Beasley: Yes.

Vice-Chair O'Neill: At some point. I mean we are not charging too much in Impact Fees, are we?

Beasley: I do not know if I can answer that question. As more projects get underway and we start paying more for land and park construction, then yes, that balance should go down.

Vice-Chair O'Neill: Thank you. Some other questions of the Board?

Curnutt: I have some curiosities that I will corner you on later because there is no need to take this meeting time.

Beasley: Okay.

Vice-Chair O'Neill: You are more than welcome if you have a question.

Curnutt: Well, you know.

Vice-Chair O'Neill: That is what we are here for.

Curnutt: I am just curious, really is. I am not seeing how the drawdown is by year. I do not know whether you have data that shows how it is going to drawdown by year. When you start projecting out into the future, you know have we got drawdown now by year up to date, which you do, I'm sure. Then when you go beyond, you have got projections on how you are going to drawdown each year's amount and how it aligns to projects.

Beasley: Chair Member Curnutt, Members of the Board. That is correct. I do track these Impact Fees by Fiscal Year. This table you can see on the screen is just kind of the summary of that. We do track it by the amount collected each Fiscal Year, and then those get spent down first, and any balances that carry forward we have that information.

Curnutt: Okay. Thank you.

Vice-Chair O'Neill: I mean to help clarify, this balance for 2021 that you show here, is that still currently paying for projects seven years prior as well as seven years ahead, out of that fund right there?

Beasley: Chair Member O'Neill. That \$6.2 million, that is just the out, the total balance that we have in the Park Impact Fees fund. Some of that is from carryovers

from previous Fiscal Years, some of that is getting updated with current Fiscal Year activity.

Vice-Chair O'Neill: How does that compare with the total projects and the cost of the projects? The future projects that that is paying for or past projects, how does that figure compare with what is planned/projected to go out? Is that kind of what you are asking?

Curnutt: That is the question about how drawdown by project is. You lay them all out were your total dollars come out. You can look at any point in time and see how much balance you have and where it is going.

Beasley: Yes, so we do have that information at any point in time, but just as expenditures occur, like let us say there is a new park constructed and we reimburse the developer for it, then when that money gets paid, then that reduces the total fund balance, because it is an expenditure going out. It will decrease the amount we have to spend from the earliest Fiscal Year, if that makes any sense.

Curnutt: Right. But you have got to have projections on when those drawdowns are going to be.

Vice-Chair O'Neill: And how much.

Curnutt: And how much.

Beasley: Correct. That is the information on the future projects for Parks that they will have. You know we have these projects planned for Fiscal Year 2022, and then more tentative, but these projects planned for going out further.

Vice-Chair O'Neill: I think the Board would like to get an idea based on all your projections, so what is still got to go out that is being built now, and then what is going out in the future, that seven years on either side. I know it will not be exact, but just a rough idea so we know how much Impact Fees and how much we are holding in reserve compared to what money is going to be spent or projected to be spent. I know things change and happens and all that you know within maybe a couple million dollars or something like that. I do not know if you can do that. Is that possible?

Beasley: I just want to make sure I am understanding you correctly. You are wanting maybe more specific timing on when some of these upcoming projects are going to be spent?

Vice-Chair O'Neill: No, just looking at all the projected projects and what is still owed and then how it matches up with the money we have as Impact Fees currently.

Beasley: Okay. Yes, I can prepare something for next meeting. .

Vice-Chair O'Neill: Not for all years, just currently.

Beasley: Yes, I can. I do not have that information right now, but I can prepare something for the next meeting if you want to see something more specific.

Vice-Chair O'Neill: Just it helps us as a Board decide, you know when we take a look at Impact Fees, which we do every year, is just see you know where we are at. Do we need more Impact Fees or is it too much on the residence and the builders? You know just to get an idea. I think the Board would like to see that, at least I would.

Roberts: I agree. You know based on this what we are seeing is over the last five years we have got an increase in the fund balance; you know it is three times greater than what it was five years ago. You know we are looking at maybe half of that for the Fiscal Year 2022. Then you're also looking at the first quarter of this year your revenues are \$3.82, so you know, that is what \$1.4 million by the end of the year, projecting that out. You know looking at five years if we continue to grow three times that balance every five years, we are going to get to a point where that balance is too big to be able to spend what was collected seven years ago.

Beasley: Yes, understood

Roberts: Without major large, large projects.

Vice-Chair O'Neill: We are only referring to Impact Fees. We understand there is also you know the bonds and grants and so forth that pay for a certain percentage of it. Which I do not know what that percentage is yet, but.

Walsh: Mr. O'Neill. If I may Mr. Chair. Delilah Walsh, for the record, Utilities Director. Your questions are excellent. Those are the things that we will come up with when we bring in the consultants to do the analysis of Impact Fees. They will be looking at those long-term CIP projects for Parks, for Fire, for Water and Wastewater, to make those determinations of, are we needing that money to meet the capacity demands of that growth? Those are really good questions. They will be laid out for you each time you come through that review. We can have that discussion. I know in Water and Wastewater we do adjust, we had lowered some Impact Fees in one end and raised them in another end, for those exact reasons of what is the long-term plan to meet the capacity demand of that growth, and only that growth. Because you are absolutely right, we want to make sure we're charging something fair and reasonable for the community.

Vice-Chair O'Neill: Maybe it is possible to show them make them aware of our question, show them in the minutes and then they can be prepared.

Walsh: Absolutely. I think that is a great suggestion. I think, I cannot remember who is next, I know it is not us, but I think it is Public Safety.

Vice-Chair O'Neill: Thank you for your presentation. Anything else?

Beasley: No sir.

Vice-Chair O'Neill: All done? Thank you. Appreciate it.

**C. Public Safety FY21 End-of-Year Financial Review:**

Beasley: I will also be presenting the Public Safety Impact Fees.

Vice-Chair O'Neill: You are doing the Public Safety too. Okay. I see that now. All right. That is item C Public Safety Financial Review. Go right ahead.

Beasley: Here is the Public Safety Impact Fees for the same Fiscal Year as of June 30, 2021. Here are the revenues and expenditures, during the month of June, we had \$93,500.00 in revenues collected and the expenditures were \$58,400.00 each month. Here is the year-to-date cumulative amount of the revenues and expenditures. At the end of the year, we had \$733,000.00 in revenues, and \$700,000.00 in total expenditures. Here is the six-year comparison for revenues, expenditures, and fund balance. At June 30th the ending fund balance was \$563,000.00. The revenues were \$733,000.00, which is up 14% from the previous year. Expenditures were down 27% from Fiscal Year 2020. That fund balance I just mentioned was up 6% over Fiscal Year 2020.

Then on the graph on the left is the month to month six-year comparison for Public Safety Impact Fee revenue. Again in Fiscal Year 2021 we had at \$733,000.00 in revenue compared to Fiscal Year 2020, which was about \$645,000.00. Then on the right side we have the same information before expenditures. There were \$700,000.00 spent in Fiscal Year 2021. In Fiscal Year 2020 that was up to \$964,000.00.

In terms of what the Impact Fees were spent on, it all went to debt service for the East Mesa Public Safety Complex. These were funded through bonds that go through June of 2026. As of the end of September, there was \$4,245,000.00 in principle remaining with \$344,000.00 in interest remaining. It is important to note that funds other than the Public Safety Impact Fees help pay down this debt as well from various other sources in the City.

Here is the data in tabular format used to construct the Fiscal Year 2021 graphs, the revenues, and expenditures. Here are the total revenues for the previous six Fiscal Years and the year over year percentage change. Then the six-year comparison for expenditures and fund balance as well. Just like the Park Impact Fees, the construction needs to be completed no later than seven years after the Impact Fees have been collected for these as well, which has the option to extend if the City securities Performance of Obligation to construct. The interest earned on the Impact Fees is subject to the same seven-year restriction. As of early October, the amount we have left to spend down is about \$537,000.00 from Fiscal Year 2021, and \$175,500.00 from the

first few months of Fiscal Year 2022. That concludes the Public Safety Impact Fees. I can stand by for any questions.

Vice-Chair O'Neill: Any questions?

Roberts: I do have one question. For the East Mesa Public Safety Complex you show \$4.1 million left on the principal and then the interest. The bonds run through 2026. Is it expected to have all of that paid off by 2026 or you know beyond that is it going to be paid off strictly with the Impact Fees and the other fees that are being used?

Beasley: Chair Member Roberts, Members of the Board. The whole bond will be paid down by 2026.

Roberts: Thank you.

Vice-Chair O'Neill: Your seven-year window and your seven-year restrictions, is that put on ourselves, the City sets that, or does that come from above, from the state? Is that a guideline that sent down to the City or does the City decide it's seven years?

Beasley: Chair Member O'Neill. I am not too sure if the City adopted this as part of their development code or if this is imposed by the Development Impact Fee at the state level. I can find out for you though.

Vice-Chair O'Neill: Does anyone on staff know that? Maybe you can let us know next meeting. It is not that important. Just curious. Anything else? Thank you.

Beasley: Thank you.

Vice-Chair O'Neill: You have the next one too.

Beasley: No, I do not.

**D. Community Development 2021 Year-to-Date Construction Activity Report Update:**

Vice-Chair O'Neill: Item D under five on the Agenda Community Development Year-to-Date Construction Activity Report update. Is Larry Nichols here?

Baum: I believe Alma just went to touch base with him.

Vice-Chair O'Neill: Okay. I guess we can come back to it. I do not know if we have to take action to do that. I do not think so. We can come back to that. Okay. Are you giving the report?

Ruiz: Alma Ruiz, Senior Office Manager for the record, I am not. I do have an update. Larry Nichols is out of office today. However, Tim Pitts was supposed to be here to present. I just called, and they also asked if David Weir was here, and

I do not see David either. At this point we will have to suspend this presentation. What do we do, Christine [Rivera]?

Rivera: Just bring it back.

Ruiz: Okay, we will bring this item back next month for presentation.

Vice-Chair O'Neill: Okay. Do we take Action?

Ruiz: No.

Vice-Chair O'Neill: Okay. All right. We will put that on the Agenda for next month. If we are meeting, is it something, it is not an action item? Anyway it is just a report. Okay.

**6. Action:**

**A. Ask for Volunteer for Assign A CIAC Member to write the 2020 CIAC Annual Report and submit to CIAC for review and discussion at the next meeting prior to submitting to the City Manager:**

Vice-Chair O'Neill: Okay. Now under action, on item six. Thank you, Alma. Every year we need to make an annual report. I have some questions about that annual report. I think Chairman Lorenz did it last year, Alma. Did that ever come before our Board? Was it in our packet?

Ruiz: Alma Ruiz, Senior Office Manager for the record. Vice-Chair, Commissioners. The vote to prepare the report did come before you. It was via Zoom if you remember or if you do not remember. Whether or not one was submitted, I will have to review that component. I am trying to recall I think there was one for 2019, however, for 2020, I am unsure. I will have to verify that.

Vice-Chair O'Neill: Please. I would like to know and would like to get those copies of those last three.

Ruiz: Sure.

Vice-Chair O'Neill: I do not know where to find them now and I would suggest in the future for the benefit of the Board that those are in writing.

Ruiz: Alma Ruiz, Senior Office Manager for the record, Yes, they are always in writing.

Vice-Chair O'Neill: In our packet or at least in writing, maybe not in the packet, so we can review it before we discuss it at the next meeting.

Ruiz: Yes. And that is protocol.

Vice-Chair O'Neill: Because the whole Board should decide, you know what is sent.

Ruiz: That is correct. I will definitely review that. I know that is the process and that is what we have done in the past. With COVID I am trying to even remember if there was one done, but I will verify that. That is a good question.

Vice-Chair O'Neill: I remember a lot of things that Mr. Beerman submitted, but I know that there was a resignation letter and a whole bunch of other stuff, I do not know if it was a City, you know report are not involved in that. That he submitted one or not. He was the Chairman at that time

Ruiz: He was. I will just double check and I will report back.

Vice-Chair O'Neill: Okay. If you do if you could at least get us copies would be great to give us an idea. Are there any volunteers on this Board would like to do that report?

Curnutt: Well, I will volunteer to assist in. Missed out on most of the year, but I would be glad to sit down with whoever writes it and help them out.

Vice-Chair O'Neill: Okay. Then I was going to say the same thing to Jason Lorenz that I would volunteer to assist. I think it would be helpful to get those other reports to see what they are looking for. Then make sure we get copies and make sure we discuss it at the future meeting which may be next month or whenever, I do not know, does it have to, is there a deadline to this?

Ruiz: Alma Ruiz, Senior Office Manager for the record. Annual Reports are submitted once a year. Like I said, COVID kind of pushed things back. We typically submit it in April. When I was going back through past Agendas, we did not hold meetings. It just kept getting pushed back and pushed back. Then I remembered, somewhere in the back of my brain, I remember saying, "The Annual Report is due."

Vice-Chair O'Neill: We have time to work with it.

Ruiz: Correct.

Vice-Chair O'Neill: Let us wait till at least I talk to Jason [Lorenz] and at least we really can make a decision at the next meeting and then get started on it after you are able to provide us.

Ruiz: This you would have to take an action on to push it to the next meeting.

Vice-Chair O'Neill: Okay. Do I hear a motion to table this to our next meeting?

Roberts: I make a motion to move it to the next meeting.

Vice-Chair O'Neill: Okay. I have a motion by Mr. Roberts.

Curnutt: I will second that.

Vice-Chair O'Neill: A second by Mr. Curnutt to table item six on this Agenda, which is an action item, to our next meeting, which would be November meeting, or whatever meeting, our next meeting whenever that should be. All in favor? Do we need roll call vote? We better take a roll call vote on that. Mr. Curnutt.

Curnutt: Aye.

Vice-Chair O'Neill: Mr. Roberts.

Roberts: Aye.

Vice-Chair O'Neill: Mark O'Neill, aye.

**B. Accept CIAC Member Nominations and Vote for Chair and Vice-Chair:**

Vice-Chair O'Neill: I think we need, it is a separate thing, but we need to do that again. It is an action item as far as Chair and Vice-Chair. I guess we could do that. I mean I would nominate Mr. Lorenz to be Chairman again. If we can vote him in without him being here, which is his own fault.

Walsh: I believe you can vote him in and as long as he does not decline next meeting you are good.

Vice-Chair O'Neill: I will nominate Mr. Jason Lorenz to be our Chairman, retain his position as Chairman for the next year. I will make that motion. Do I have a second?

Roberts: Second it.

Vice-Chair O'Neill: Second by Mr. Roberts. Roll call vote. Mr. Curnutt.

Curnutt: Aye.

Vice-Chair O'Neill: Mr. Roberts.

Roberts: Aye.

Vice-Chair O'Neill: Aye. Mark O'Neil As far as Vice-Chair, is anyone here interested in that or would like to make a similar motion for Vice-Chair?

Roberts: Nominate you. You are doing a great job.

Vice-Chair O'Neill: I will accept if someone else wants it.

Curnutt: I will second that.

Vice-Chair O'Neill: Okay. I have been nominated for Vice-Chair as I currently hold a position. Roll call vote. Mr. Roberts.

Roberts: Aye.

Vice-Chair O'Neill: Mr. Curnutt.

Curnutt: Aye.

Vice-Chair O'Neill: I will vote for myself.

**7. Public Participation:**

Vice-Chair O'Neill: The next item on the Agenda...also I did not take roll call at the beginning, but did you get it down as far as? I did not see it on the Agenda, and I did not do it. Okay. Who is absent and so forth you have it for the minutes. For the record. All right, item seven is Public Participation. Mr. Shervanick. The floor is yours.

Shervanick: Thank you. Gregory Shervanick. S-H-E-R-V-A-N-I-C-K for the record. I am here to present, I asked Alma to give you two pieces of literature. If you will lay them side by side they will give you the context. The City Council met on October the 18th. Excuse me, City Clerk. I am a member of the public, but I am running for a public office.

Vice-Chair O'Neill: I noticed that.

Shervanick: The City Council met on October the 18th and during their CIP Amendments of the Agenda, the picture that you have that is the darker one that says CIP amendments. It lists Brown Farm Ponding Improvements and an East Mesa Recreational Complex Road, and the each have a one next to them. My concern is that this is money that is being shifted within the same funding mechanism. On the second piece of paper, which is the accounting thing, marked in yellow you will notice the amounts that are missing from the first document. That would make a combined total for the East Mesa Recreational Complex of over \$3.5 million. Being that the GO Bond was voted on and at the same time there was no CPI for a road to those locations, I feel it is important that the details be put out on the record.

Since during that discussion at City Council there were quite a few questions concerning the movement of money within a single funding mechanism because they are all under Public Works. Although I wish to welcome Mr. Roberts, Mr. Curnutt, I have spoken before and I am going to use this example which I do not believe that you are familiar with what the City put in a CPI project under Parks and Recreations, and then change to Parks and Recreations and Public Works. It is called the Nevada Cool Corridor. It is chicanes fund Walnut Street the whole way to Solano. They were to have shade trees in them, of course now they have almost nothing in them. The project was supposed to be sustainable and self-sufficient with no cost, but that cost will be between \$12,000.00 and \$20,000.00 a year for perpetuity. It is important that the details of money moving within Public Works as well as other CPI projects be brought to you in detail. I thank you very much for your time.

Vice-Chair O'Neill: Thank you. Can staff look into this? Did you make this presentation to the City Council as well Greg? No? Did you make this presentation when you went before the Council?

Shervanick: No, it was done by the members of staff during the Agenda item, and I didn't ask them about it, but City Councilors asked it. If you would like to review it, it is on the recording at 54 minutes.

Vice-Chair O'Neill: Okay. Thank you. Anybody else from the public? Do we have any e-mails from the public? Okay.

Ruiz: Alma Ruiz, Senior Office Manager for the record. No sir.

### **8. Board Comments:**

Vice-Chair O'Neill: Board comments. Mr. Curnutt.

Curnutt: I have none. Thank you.

Vice-Chair O'Neill: Okay. Mr. Roberts.

Roberts: I have no comments.

Vice-Chair O'Neill: Okay.

### **9. Next Meeting Date - November 18, 2021:**

Vice-Chair O'Neill: Our next meeting is scheduled for November 18th. We do have an Agenda already here for that. We do it ahead of time. We are also going to be adding those items that we were not able to present today, which is Community Development Construction Activity Report by Mr. Nichols. Then I do not show a whole lot more. As far as I know we will be having a meeting. We will discuss it with Mr. Lorenz. Maybe there will be some other things that will be on the Agenda as well. That will be November 18th.

Curnutt: Let me highlight the fact that under action item for the proposed Agenda for next month, items I, that is item CI, says that we will discuss and vote on the submitted annual report. I think we have now moved that annual report out.

Vice-Chair O'Neill: Right, so we will not need to do that. I am just wondering if a meeting would be necessary. Well, we will look at Agenda. I will talk to with the Chairman and with staff, and if for any reason, we will not have a meeting you will be informed. The requirements are at least four meetings a year, but we usually have more than that, of course we usually meet at least eight times a year, at least. We will find that out and then we determine, we will leave it scheduled as now and we will make a decision before all the notices have to go out and so forth. That okay? All right.

I just have one thing would like to ask. At some point the committee, I think I might have been Parks and Rec, they gave these nice folders out. Is there any way maybe our Board can get these? Our fairly new Board. Maybe we can have some kind of like folder for our paperwork and so forth. It does not have to be just like this one.

Ruiz: We are going to be handing these.

Vice-Chair O'Neill: Good. Thank you. Wow you are way ahead of me.

**10. Adjournment:**

Vice-Chair O'Neill: All right. Well, if there is nothing else, I will move that we close the meeting. All in favor.

Roberts: Aye.

Curnutt: Aye.

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Jason Lorenz, Chairperson

Date