

CITY COUNCIL MEETING – January 4, 2010

STATE OF COLORADO)
COUNTY OF OTERO) SS
CITY OF LA JUNTA)

Subject to approval at the January 19,
2010 Regular City Council Meeting.

CALL TO ORDER: A regular meeting of the City Council of the City of La Junta, Colorado, was called to order by Mayor Don Rizzuto on Monday, January 4, 2010, at 7:30 p.m. in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE: Mayor Rizzuto led everyone in the Pledge of Allegiance.

INVOCATION: Father Bernie Ebert gave the invocation.

ROLL CALL: The following Council Members were present:

Jackie Abrams, Ward 1
Eugene Mestas, Ward 1
Billie Johnson, Ward 2
Don Rizzuto, Mayor
Bill Schmidt, Ward 2
Bob Freidenberger, Ward 3
Michael Moreno, Ward 3

Absent: None

Also present: Rick Klein, City Manager
Bill Jackson, Assistant City Manager/Director of Public Safety
Jan Schooley, City Clerk
Patty Hurt, Finance Director
Lloyd Smith, Electric Utility Director
Mike Steeves, IT Manager
Ron Davis, Economic Development Director
Allen Hill, Utilities Board
Chandra Ochoa, La Junta Chamber of Commerce
Joe Carson, Jr., La Junta
Janice Leija, La Junta
Josh Sankowski, La Junta
Bev Babb, La Junta
Basiel Layton, La Junta
Gary Wyant, La Junta
Lance Benninghoff, Otero County
Cheryl Lindner, La Junta
Bette McFarren, The Local Buzz
Lisa Steeves, Tribune-Democrat

MINUTES OF PREVIOUS MEETINGS: Mayor Rizzuto asked if there were any corrections to the minutes of the December 21, 2009 Regular City Council Meeting. Hearing none, he declared the minutes approved as published.

CITIZEN PARTICIPATION

- A. Joe Carson, Jr., 518 E. 5th Street, spoke in opposition to the Ordinance that will be considered at this meeting that will extend the moratorium on medical marijuana dispensaries.
- B. Cheryl Lindner, 16 E. 22nd Street, asked some questions about the Ordinance that will extend the moratorium on medical marijuana.

REPORTS

- A. **Economic Development.** Ron Davis gave his report.

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UNFINISHED BUSINESS

- A. **Second Reading/AN ORDINANCE ADOPTING THE 2009 TAX COMPLIANCE AMENDMENTS TO CITY OF LA JUNTA CASH OR DEFERRED RETIREMENT PLAN.** The ordinance was read by title only, there being copies available to those in attendance.

MOTION TO ADOPT THE ORDINANCE ON SECOND READING: Freidenberger

SECOND: Schmidt

DISCUSSION: None

VOTE: The motion carried 7-0.

- B. **Second Reading/AN ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS TO THE GENERAL FUND, PROPERTY MANAGEMENT FUND, ELECTRIC FUND, AVIATION FUND, SANITATION FUND, CONSERVATION TRUST FUND AND URBAN RENEWAL FUND FOR THE CALENDAR YEAR 2009.** The ordinance was read by title only, there being copies available to those in attendance.

MOTION TO ADOPT THE ORDINANCE ON SECOND READING: Freidenberger

SECOND: Moreno

DISCUSSION: None

VOTE: The motion carried 7-0.

NEW BUSINESS

- A. **AN EMERGENCY ORDINANCE EXTENDING THE MORATORIUM CONCERNING MEDICAL MARIJUANA DISPENSARIES.** Council Member Freidenberger introduced the ordinance by title only, there being copies available to those in attendance.

MOTION TO ADOPT THE ORDINANCE: Freidenberger

SECOND: Abrams

DISCUSSION: The City Attorney explained that there is no question that the Colorado voters approved an amendment which authorizes medical marijuana dispensaries, based upon prescriptions and so forth. This proposed ordinance does not change that fact. Some home rule communities have legislated a complete ban on medical marijuana dispensing facilities. Other places have been progressive in their analysis and in their development of zoning schemes and other schemes which promote medical marijuana dispensaries and the use thereof. Some communities have passed moratoriums similar to ours, because they want to wait and see what will occur on the State legislative level. Senator Romer has proposed some legislation to clarify the Medical Marijuana Act. No one can be sure of the outcome of this proposed legislation; therefore, this moratorium will freeze any City action that would otherwise prohibit or enable medical marijuana dispensaries. It is as much of a protection to the individuals that are promoting this matter as it is to those who are in opposition. Rather than go through a process which only serves to confuse the public, this moratorium says to the City "you are not to undertake any administrative actions or legislative actions which are going to somehow be connected to the issue of medical marijuana." In the meantime, any court determination made at this point on this matter is not binding on anyone other than the parties to the action (ref. City of Centennial). These court actions may influence what happens down the road in some way, but there is no certainty about any of it, and it is so premature at this time as to be speculative.

Mr. Malouff went on to say that whatever Council chooses to do tonight, it will not prohibit any participant within the City from getting a prescription and going to any place in any jurisdiction which allows for the medical dispensing of marijuana and buy whatever they think is appropriate for their condition. Council may not ascribe their own value systems with regard to the issue of marijuana on the public. This is not a discussion of whether the State law is appropriate or not. It is a discussion of what we do with regard to enforcement of certain contradictory laws and what we do with regard to enforcement of zoning issues. So for right now, although it may seem aggressively directed at trying to inhibit the medical marijuana facilities, it probably is closer to the exact opposite. It is the freezing of administrative and legislative actions which might somehow be prohibitive. We want to wait and see what the State legislature does.

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Freidenberger asked why was the date of May 31, 2010, put in the ordinance? Mr. Malouff said it was his best guess as to when the final draft of any State legislation would be done. Freidenberger went on to say that perhaps the date should be December 31, 2010, and then we have the whole year to work on it, and if it things develop earlier than that we can end the moratorium sooner. Mr. Malouff said he had no problem with setting the date to December 31 if that is the wish of Council.

MOTION TO AMEND SECTION 1 OF THE ORDINANCE TO SAY “THAT SAID MORATORIUM IS EXTENDED TO DECEMBER 31, 2010 UNLESS EARLIER TERMINATED OR SPECIFICALLY EXTENDED BY ORDINANCE OF CITY COUNCIL”: Freidenberger

SECOND: Schmidt

DISCUSSION: None

VOTE: The motion carried 7-0.

MOTION TO ADOPT THE ORDINANCE AS AMENDED: Freidenberger

SECOND: Mestas

DISCUSSION: None

VOTE: The motion carried 7-0.

B. Resolutions

1. **A Resolution Concerning Publication of Legal Notices.** Resolution R-1-2010 was presented for Council's consideration. The resolution states that all legal notices required to be published by the ordinances of the City of La Junta shall be published in the La Junta Tribune-Democrat.

MOTION TO ADOPT THE RESOLUTION: Freidenberger

SECOND: Schmidt

DISCUSSION: None

VOTE: The motion carried 7-0.

2. **A Resolution Concerning City of La Junta Enterprise Funds.** Resolution R-2-2010 was presented for Council's consideration. The resolution states that the Electric Fund, Sewer Fund, Water Fund, Sanitation Fund and Property Management Fund are considered to be “enterprises” as used with the Tabor Amendment.

MOTION TO ADOPT THE RESOLUTION: Freidenberger

SECOND: Schmidt

DISCUSSION: In the past the Aviation Fund was also named an enterprise fund, but it is now part of the General Fund.

VOTE: The motion carried 7-0.

3. **A Resolution Concerning Offenses Against City Property.** Resolution R-3-2010 was presented for Council's consideration. The resolution states that all discovered or reported offenses against the property of the City shall be referred to the appropriate law enforcement agency in this county for such action as may be deemed proper.

MOTION TO ADOPT THE RESOLUTION: Freidenberger

SECOND: Schmidt

DISCUSSION: None

VOTE: 5-0

4. **A Resolution Designating Official Depositories for City Funds.** Resolution R-4-2010 was presented for Council's consideration. The resolution names the following as official depositories for the various funds for the City for the calendar year 2010: The Colorado Bank & Trust Company of La Junta; State Bank and Trust Company of La Junta; Colorado East Bank & Trust; First National Bank of Las Animas and La Junta; and U.S. Bank.

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MOTION TO ADOPT THE RESOLUTION: Moreno

SECOND: Johnson

DISCUSSION: Rizzuto and Moreno said they would abstain from voting, since Mayor Rizzuto works for Colorado Bank & Trust and Council Member Moreno works for U.S. Bank.

VOTE: The motion carried 5-0 (Rizzuto and Moreno abstaining).

5. **A Resolution Concerning the Posting of Open Meetings.** Resolution R-5-2010 was presented for Council's consideration as follows:

WHEREAS, the public cannot exercise its right to attend open meetings unless sufficient notice is provided to its citizens; and

WHEREAS, the Open Meetings Law requires the public to receive full and timely notice of any meetings held; and

WHEREAS, the Open Meeting statute (24-6-402) provides in part as follows:

Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. In addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the boundaries of the local public body no less than twenty-four hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year. The posting shall include specific agenda information where possible.

BE IT THEREFORE RESOLVED that the City Council of the City of La Junta, the Board of Utilities Commissioners, the Planning Commission of the City of La Junta, the Airport Advisory Board, the Urban Renewal Authority, and any other advisory boards which have been created by Ordinance and which are required by ordinances of the city of La Junta to comply with the open meetings law shall comply with this Resolution.

BE IT FURTHER RESOLVED that notice of the meetings shall be issued by the Clerk of the City of La Junta.

BE IT FURTHER RESOLVED that designated place for posting of the meetings shall be the main foyer of the City Building located at 6th and Colorado, La Junta, Colorado.

MOTION TO ADOPT THE RESOLUTION: Schmidt

SECOND: Moreno

DISCUSSION: None

VOTE: The motion carried 7-0.

- C. **Approval of La Junta Municipal Airport Advisory Board Bylaws.** Mr. Malouff said the Airport Advisory Board asked for a revision to their Bylaws. Section 9 has been revised to say: "The regular meetings of the Advisory Board shall be held the second Thursday of every other month (January, March, May, July, September and November) at 7:00 p.m., at the City Utility Board Room or at other places as the Board may agree upon in advance. The time and date of meetings may be changed from time to time, by unanimous consent of the Board Members, but a meeting must be held no less frequently than semi-monthly. Other meetings may be scheduled as the needs of the board may dictate as allowed under Section 15 herein."

MOTION TO ADOPT THE CITY OF LA JUNTA MUNICIPAL AIRPORT ADVISORY BOARD BY-LAWS (REVISED 1-4-10): Freidenberger

SECOND: Moreno

DISCUSSION: None

VOTE: The motion carried 7-0.

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D. **Application for a Special Events Permit by the La Junta Chamber of Commerce, Chandra Ochoa, Event Manager. The event is the Annual Chamber Banquet to be held at the Otero Junior College Student Center on Monday, January 25, 2010 from 6 PM to 10 PM.** The application is in order and has been reviewed by City Supervisors for compliance with City and State codes. Appropriate fees are attached and the premises have been posted.

MOTION TO GRANT THE SPECIAL EVENTS PERMIT TO THE LA JUNTA CHAMBER OF COMMERCE: Moreno

SECOND: Abrams

DISCUSSION: None

VOTE: The motion carried 7-0.

E. **Committee/Board Reports** – None

F. **City Manager’s Comments**

- 1. Sales tax revenues were down 8% for the month of December (November sales). We ended up \$15,000 ahead for the year with 0% increase in sales tax, which isn’t bad considering other places in the state and nation.

G. **City Attorney’s Comments** – None

H. **Governing Body’s Comments**

- 1. Freidenberger said ARPA will close on the arbitration with Raton tomorrow via a conference call.
- 2. Mestas questioned the City Manager about sweeping leaves off of the streets downtown. He said that trash is accumulating on the leaves downtown between 3rd and 1st.
- 3. Schmidt said he had out of town guests and they were pleased to see the luminaries in the park on Christmas Eve and the flagpoles at Santa Fe Plaza.
- 4. MOTION TO GO INTO EXECUTIVE SESSION FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS UNDER C.R.S. 24-6-402 (4) (e): Freidenberger

SECOND: Moreno

DISCUSSION: Mayor Rizzuto said no action will be taken during the executive session and the meeting will be reconvened for adjournment.

VOTE: The motion carried 7-0.

Council went into executive session at 8:22 P.M. The session ended at 8:50 P.M. whereupon there being no further business, the meeting was adjourned.

ATTEST:

CITY OF LA JUNTA

Janice L. Schooley, City Clerk

Don Rizzuto, Mayor