City Council
of the
City of Las Cruces

Regular Meeting

April 4, 2011
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:	**STAFF:**
Mayor Ken Miyagishima	Robert Garza, City Manager
Councillor Miguel Silva, District 1	Harry (Pete) Connelly, Interim City Attorney
Councillor Dolores Connor, District 2	Linda Lewis, Deputy City Clerk
Councillor Olga Pedroza, District 3	
Councillor Nathan Small, District 4	
Councillor Gill Sorg, District 5	
Councillor Sharon Thomas, District 6	

I. OPENING CEREMONIES

Mayor Miyagishima called the meeting to order and asked for a moment of silence. Councillor Small led the Pledge of Allegiance.

Carol Gains sang the National Anthem.

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and a representative from the Animal Services Center of the Mesilla Valley presented the Pet of the Week.

Councillor Small presented a Proclamation to Railly McDaniel and declared April 2011 as Fair Housing Month.

Udell Vigil, PIO Director showed two videos regarding Recycling PSA's.

Councillor Small presented a Proclamation to Maria Sanders and declared April 2011 as Donate Life Month.

Councillor Small presented a Proclamation to Hugo Costa and declared April 10 thru April 16, 2011 as National Public Safety Telecommunications Week.

Councillor Small presented a Proclamation to Kim O'Byrne from Mayfield High School and Amy Simpson from Alma de Arte and declared April 1, 2011 as Golden Apple Foundation of NM Tribute to Teacher Excellence Day.

Councillor Small presented a Proclamation to Tara Lucero and declared April 11 thru April 15, 2011 as National Cancer Registrars Week.

II. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27(E)(2). *At the opening of each council meeting, the chairperson shall ask if any member of the city council, city manager, or any member of the city staff has any known conflict of interest with any item on the agenda.*

Mayor Miyagishima asked if anyone had any conflicts with anything on the agenda?

Mayor Miyagishima said I have a conflict with the appointment to the Airport Advisory Board; Mr. John Darden has done some work for me in the past.

Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council and Dona Ana County Board of Commissioners met in a Closed Session at 2:04 p.m. on March 29, 2011. The following members were in attendance: Mayor Miyagishima, Councillor Silva, Councillor Connor, Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas, City Manager Robert Garza, Interim Assistant City Manger Brian Denmark, Interim City Attorney Harry (Pete) Connelly, Attorney Matt Holt, Commissioner Garrett, Commissioner Saldana-Caviness, Commission Kraling, Commission Benavidez, County Manager Brian Haines, Attorney David Medieros and Attorney John Caldwell. The discussion for Item 1 concluded at 3:30 p.m. and only those limited items as stated in the posted notice were discussed which was the receivership of Memorial Medical Center, Inc.

Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council and Dona Ana County Board of Commissioners met in a Closed Session at 3:35 p.m. on March 29, 2011. The following members were in attendance: Mayor Miyagishima, Councillor Silva, Councillor Connor, Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas, City Manager Robert Garza, Interim Assistant City Manger Brian Denmark, Interim City Attorney Harry (Pete) Connelly, Utilities Attorney Marcy Driggers, Utilities Director Jorge Garcia, Commissioner Garrett, Commissioner Saldana-Caviness, Commission Kraling, Commission Benavidez, County Manager

Brian Haines, Ed Freckenstein and Attorney David Medieros. The meeting adjourned at 4:15 p.m. and only those limited items as stated in the posted notice were discussed which was threatened or pending litigation in the matter of Griggs and Walnut Ground Water Plume Superfund Site.

Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council met in Closed Session at 4:24 p.m. on March 29, 2011. The following members were in attendance: Mayor Miyagishima, Councillor Connor, Councillor Small, Councillor Sorg, Councillor Thomas, City Manager Robert Garza, Interim Assistant City Manager Brian Denmark, Interim City Attorney Harry (Pete) Connelly and Attorney Damien Martinez. The discussion for Item 1 concluded at 4:55 p.m. and only those limited items stated in the posted notice were discussed which was pending litigation in the matter of Hernandez v. Frias, Baker, City of Las Cruces USDCNM, Civ-10-0351.

Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council met in Closed Session at 5:00 p.m. on March 29, 2011. The following members were in attendance: Mayor Miyagishima, Councillor Connor (left before meeting adjourned), Councillor Small, Councillor Sorg, Councillor Thomas, City Manager Robert Garza, Interim Assistant City Manager Brian Denmark, Interim City Attorney Harry (Pete) Connelly, Work Comp. Mark Castillo and Attorney Damien Martinez. The meeting adjourned at 5:08 p.m. and only those limited items stated in the posted notice were discussed which was pending litigation in Workers Compensation Cases.

III. PUBLIC PARTICIPATION

Rudy Aragon, Member of the Public said I have been to every agency there is and I have made contact with Mayor Miyagishima.

Mayor Miyagishima said the reason I told you that I couldn't speak to you anymore was because you informed me that you had retained an attorney and would possibly be suing the City of Las Cruces.

Rudy Aragon said I asked to speak with you before I retained an attorney and I still haven't retained an attorney. My child's mother was charged with assault with a deadly weapon and child abuse in September 2009. I received documentation from CYFD that shows my son had high levels of drugs in his system which they have given to the Las Cruces Police Department but nothing has been done. The Mayor is now blocking all my emails to him and I would like to pass my phone around to Council to prove it.

Mayor Miyagishima said I told you that once you brought up that you might sue the City then I can't have any further conversations with you.

Russ Warner, Member of the Public said I just want to thank Chief Williams for the recent Police operation that netted a lot of cell phone violations. I would like to encourage the Chief to keep doing this throughout the entire city.

George Murphy, Member of the Public said I would like to open the door for Agenda 21, the United Nations is trying to control the United States and take our weapons away. I would ask that you reconsider what you get from the United Nations because it is run by thugs that want to take us down.

Jim Harbison, Member of the Public said some of the Council members and the Mayor have repeatedly denied supporting Agenda 21 but as part of the Sustainability Program, Las Cruces pays dues to the International Council for Local Environmental Initiatives which is referred to as "ICLEA"and it is a United Nations sanctioned organization. Councillor Sorg has admitted in emails that he supports ICLEA and I would imagine that the rest of the Council does as well, except for Councillor Thomas. The City's membership to ICLEA does by default or by intent supports Agenda 21. I speak for a lot of people who want this membership terminated immediately because it is a threat to the American concept of private property.

Tarce Peterson, Member of the Public said I am the Research and Publication Chair for the Las Cruces Tea Party and I am here to invite all of you to our meeting this Thursday at the Mountain View Christian Church at 6:30 p.m.

Councillor Thomas said I want to say that the City Clerk has researched our resolutions and there has not been one passed to support Agenda 21. I want to mention that Agenda 21 was signed in 1992 by 178 governments and there are twenty-seven principals that have to do with Agenda 21. I have met people from several different countries that give up their time to go to communities to teach people how not to destroy their environment which is what sustainability is all about. We did pass a Sustainability Plan which is about conserving resources and saving money.

Councillor Small said I went to the Butterfield Range War event on Saturday; I believe very strongly in our second amendment right and I think we all believe in our right for private property. I think it is wrong for people to be thinking that there is some kind of a conspiracy going on because it distracts us from what we should be doing which is working on things like water conservation and energy efficiency.

Councillor Pedroza said I received a copy of an email that has been circulating from Save our City, Las Cruces Tea Party and I was disturbed because of the use of the language in it. It states that the Las Cruces City Council is owned and operated by Progressive Voter Alliance and that is not true.

Councillor Silva said I appreciate that we have this dialog going because that's what makes this Country so great. There are several sections of Agenda 21 and one of them is regarding social issues. We have social issues but sometimes we don't have the financial resources to help everybody in this

community. We need to come together, regardless of our differences, and ask "what is going to make Las Cruces in the next ten, twenty years?"

Councillor Connor said I get disturbed by the emails that were mentioned by Councillor Pedroza. This Council does have a variety of opinions and we all have our different priorities but one priority isn't prioritized more than another. I ran for office because this is a non-partisan elected body and that is what is important to me. There are times that we have to agree to disagree and move on. I don't think there should be any applause or booing in these chambers because it only shuts down those who may have a smaller voice and we need to respect their thoughts also.

IV. ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY AN ASTERISK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON BY ONE MOTION.

Mayor Miyagishima said Item 4 needs to be removed from the Consent Agenda for discussion.

Councillor Connor Moved to approve the Agenda as Amended and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to accept the Agenda as Amended and it was Unanimously APPROVED. 7-0

V. CITY COUNCIL MINUTES

*(1) Regular Meeting of March 7, 2011
*(2) Regular Meeting of March 21, 2011

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

*(3) Resolution No. 11-202: A Resolution Authorizing the City of Las Cruces to Accept Awarded Funding on Behalf of the Las Cruces Thomas Branigan Memorial Library in the Amount of $10,000, to Ratify City Manager's Signature on the Grant Contract, and to Adjust the City of Las Cruces FY 2011 Budget.

VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

*(4) Resolution No. 11-203: A Resolution Repealing Resolution No. 03-357, and Authorizing the Reformation of the Employee Benefit Committee as a City Manager Policy.

Councillor Small Moved to Adopt Resolution No. 11-203 and Councillor Thomas Seconded the motion.

Councillor Silva asked was this committee dissolved? I thought the Balloon Festival we sponsored was a great event and I was thinking we could turn it over to this committee and they could sell tickets to it.

Mayor Miyagishima said the City Manager is going to be listing all the events and the cost of those events that we sponsor.

Robert Garza, City Manager said the reason this resolution is before you today is because this committee was formed under a resolution several years ago and the City Manager and Department heads were to be part of this committee but over the years there has been a delegation of authority to staff. The amount of money that this committee spends is within the City Manager's authority so instead of them having to come before Council with their events, we decided to make this a City Manager Policy.

Jennifer Martin, Co-Chair of the Employee Benefit Committee said our primary income comes from the vending machines and that is enough money to provide our services which are things like providing retirement plaques to employees, sending flowers to employees that have been hospitalized or had a birth or death in their family and we do try to have a couple of events every year. This resolution would reorganize this committee and put us under the City Manager's Policy.

Councillor Connor said I just want to say that I have never been in favor of us sponsoring things like tables at events because it isn't included in our budget but I think this committee does a great job.

Mayor Miyagishima said there are some events that are for very good causes, like the Red Cross, that I think it is important for us to support.

Councillor Connor said you misunderstood me, I didn't mean those types of events.

Councillor Small said I think this is a positive step forward and I strongly support it.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-203 and it was Unanimously APPROVED. 7-0

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(5) Resolution No. 11-204: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction for a Governmental Liquor License for the City of Las Cruces, for Its Use at the Las Cruces Convention Center, Located at 680 East University Avenue, Las Cruces, New Mexico.

Councillor Small Moved to Adopt Resolution No. 11-204 and Councillor Sorg Seconded the motion.

Ken Mompellier, Convention and Visitors Bureau Director said all the information and maps are included in your packet and we have been working with the University and the Liquor Commission regarding the boundaries for this license.

Councillor Silva said this is on the University's property; correct?

Ken Mompellier said that is correct. The University does already have other licenses for other areas on their campus.

Councillor Connor said with a Government Liquor License, you can't go more than ten days without serving; correct?

Ken Mompellier said we are trying to verify that but we don't think that's necessarily true.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-204 and it was Unanimously APPROVED. 7-0

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(6) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 11-205; A PUBLIC HEARING MUST BE HELD:**

Mayor Miyagishima said the Public Hearing for Resolution No. 11-205 is now open; is there anyone who wishes to speak against this item?

Chris Perez, Member of the Public asked is Global Spectrum going to lease the City's liquor license?

Robert Garza, City Manager said yes, we will be leasing it to Global Spectrum as our agent.

Chris Perez asked how much are you going to charge them?

Robert Garza said we will begin those negotiations with them if this resolution is approved.

Chris Perez asked whose account will the money from the liquor sales be deposited?

Robert Garza said those things will have to be worked out within the agreement and once we have an agreement then we will bring it back before Council for their approval.

Chris Perez said it doesn't make sense because you can't share the profits of the liquor sales.

Councillor Silva said there is still going to be another step beyond this one which will be the lease agreement and this is how most Convention Centers work but we will need to address the issue of the liability insurance when we enter into negotiations for the lease agreement.

Chris Perez said I just want to make sure the City is covered because if someone does get hurt, it is a City building and it would be coming out of all of our pockets.

Emma Murillo, Member of the Public said you are going to be getting all the Texans coming over here for liquor on Sundays and it is going to create more alcoholism in New Mexico.

Victor Perez, Member of the Public asked what is the license costing the City?

Harry (Pete) Connelly, Interim City Attorney said $1,300.

Victor Perez said I think that is very unfair because us business people have to pay $300,000 for a liquor license and for the City to only pay $1,300 and then turn it over to these other people is unfair.

Ron Camunez, Member of the Public said it is important that you have professional staff to run this because we need to show everyone inside and outside of Las Cruces that we run a class-act at the Convention Center.

Mayor Miyagishima closed the Public Hearing.

> Resolution No. 11-205: A Resolution Approving the Issuance of a Governmental Liquor License to the City of Las Cruces, for its Use at the Las Cruces Convention Center, Located at 680 East University Avenue, Las Cruces, New Mexico.

Councillor Connor Moved to Adopt Resolution No. 11-205 and Councillor Sorg Seconded the motion.

Councillor Silva said there are a lot of moving parts to the Convention Center and maybe we need to have a work shop to discuss it and to discuss how we can help all the small businesses in town.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-205 and it was Unanimously APPROVED. 7-0

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(7) Resolution No. 11-206: A Resolution Authorizing the City to Exercise the Purchase Agreement for the 1.687 Acre Property at 905 S. Campo Street From the Housing Authority of the City of Las Cruces for $221,000.00 Using Community Development Block Grant (CDBG) Funds for the Future Site of the Senior Programs Central Kitchen Project.

Councillor Small Moved to Adopt Resolution No. 11-206 and Councillor Thomas Seconded the motion.

David Dollahon, Neighborhood Services Administrator gave an overhead presentation and said this is for the purchase of land for the Meals on Wheels kitchen facility. There have been CDBG funds that have already been approved for the site selection, design and land acquisition. The executed purchase agreement sets the price at $221,500 less the $5,000 payment made at signing which bring the total amount due to $216,500.

Mayor Miyagishima said I think Meals on Wheels is an excellent service provided by the City.

Councillor Small asked how did you come up with the price of the land?

David Dollahon said there were two appraisals done and we negotiated a price between the two appraisals.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-206 and it was Unanimously APPROVED. 7-0

VIII. BOARD APPOINTMENTS

Mayor Miyagishima appointed John Darden (District 1) to the Airport Advisory Board.

Councillor Small Moved to Approve the Mayor's Board Appointment of John Darden (District 1) to the Airport Advisory Board and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's Board Appointment of John Darden (District 1) to the Airport Advisory Board and it was Unanimously APPROVED. 7-0

IX. REVIEW OF PROPOSED ORDINANCE(S)

(8) Council Bill No. 11-032; Ordinance No. 2612: An Ordinance Approving a Zone Change from HC (Holding-Conditional) to M-3C (Heavy Industrial-Conditional) and to Deviate 100% From the Parking Requirement for an 11-Foot On-Site Driving Aisle. Submitted by the City of Las Cruces, Property Owner. (Z2823)

Mayor Miyagishima and Council agreed to be bring this item back.

(9) Council Bill No. 11-033; Ordinance No. 2613: An Ordinance Approving a Zone Change From R-1A/C-2 (Single-Family Medium Density/Commercial Medium Intensity) to C-2C (Commercial Medium Intensity-Conditional) for 0.68 ± Acres of Land Located at 3350 Oak Street. The Zone Change Request Includes Two Variances: (1) A Numerical Reduction of 10-Feet to the Minimum Required 10-Foot Opaque Bufferyard; and (2) A Numerical Reduction of 5 Parking Stalls to the Minimum Required 32 Parking Stalls. Submitted by ASA Architects on Behalf of the Las Cruces Housing Authority, Property Owner. (Z2825)

Mayor Miyagishima and Council agreed to be bring this item back.

X. GENERAL DISCUSSION

1. MAYOR

Mayor Miyagishima passed.

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2. **CITY COUNCIL**

Councillor Thomas said I would like to give credit to Carmela Espinoza for the hard work she has done with problems that were brought to her by the new District 6 Neighborhood Association.

I sent out information regarding recycling over the weekend to my District 6 list and I would like to request that we put that information on our website.

Councillor Sorg passed.

Robert Garza, City Manager said I thought Council might have questions regarding the recycling bins so I asked Klaus Kemmer to give you some information regarding that project.

Klaus Kemmer, Solid Waste Administrator said today is the first day of pick up for the recycling bins and about 70% to 80% of customers put their bins out for pick up. The routes were completed by about 1:15 p.m. so they did a good job of picking up the containers. We will be reviewing their work and speaking with them over the next several months to make any necessary adjustments.

Councillor Small asked what is the policy for rentals and apartments?

Klaus Kemmer said commercial dumpster areas won't get recycling bins.

Councillor Small said I would like to congratulate the Breakfast Optimist Club which will be celebrating their 50th Anniversary this Thursday at the Las Cruces Convention Center.

We have Keep Las Cruces Beautiful coming up on the 16th and there are a lot of folks already signed up but you can still sign up for this event.

The Border Book Festival is coming up this weekend in Mesilla and it is a great event.

I want to thank Donna Richmond from La Pinon for putting on the outstanding Cowboys vs. Cops Shooting Benefit Event.

I want to thank Dan Soriano for responding to a few issues that have come up.

I want to thank Mike Johnson and his staff for responding to some street issues.

I want to thank Chief Williams for his help regarding some graffiti issues.

The Las Cruces Green Chamber of Commerce did an outstanding job with the kick-off for recycling and I want to mention that there is going to be a Green Chamber Meeting next Thursday.

Councillor Pedroza said there will be an Earth Day event in mid-April at Young Park and there will be activities for everyone.

The School Gardens are getting closer and closer to being a reality.

My three times a week Walk and Talk at Young Park is getting more and more people and I would like to extend my invitation to everybody to come and join us.

I am getting ready to begin working on trying to get a program going to help weatherize old homes and I would like to have anyone interested in helping to contact me.

Councillor Connor said we are in the process of planning the September 11th event which will be the ten-year remembrance of the attack on the United States. This event will be held at City Hall and we have lined up several performances.

The Student Council of Picacho Middle School will be here on April 25th and they are going to take a tour of City Hall. They will be attending the Work Session for about twenty minutes and I would like to ask that we have some kind of recognition for them.

Councillor Silva said I would like to give the Police Chief kudos for the work that was done over the weekend.

I attended the first Re-Districting Committee meeting and it was a very spirited meeting. I think this group of people really want to make a difference.

This past Friday was the monthly Ramble and I'd like to compliment the Jaynes Corporation for having the concrete poured so people could walk around for this event.

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3. **CITY MANAGER**
   A. Other items - Information Only.

Robert Garza, City Manager said I want to remind everyone that we will not be having a TIDD Board Meeting next week.

Robert Scaling will be giving you an update on the utility billing process.

Robert Scaling, Treasure gave an overhead presentation and said the major problems that occurred caused delayed billing and that caused some people to get two bills in the same month. There were issues with the calculation of the solid waste and with actual meter readings not computing correctly in Munis. We feel like we have fixed all of those problems and we have had to make enhancements to the system because of things like the sale of Rio Grande Gas and for the new recycling program. We will always have some kind of issue going on which means there will always periodically be issues with the system. The three primary issues that we are currently working on are the enhancements to the delinquent process, the internal billing process and the electronic billing process.

Mayor Miyagishima said I know it's a computer issue but the one thing that really bothers the residents that have auto pay is that when it didn't go through one month then the next month they have a past due balance and two payments come out of their account in one month.

Robert Scaling said that is a unique event that occurs when we have a delay in the billing process but it doesn't happen that often.

Meeting Adjourned at 3:40 p.m.

Mayor

ATTEST:

Esther Martinez

City Clerk

(SEAL)