City Council
of the
City of Las Cruces

Regular Meeting

April 4, 2016
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:

Mayor Ken Miyagishima
Councillor Kasandra Gandara, District 1
Councillor Greg Smith, District 2
Councillor Olga Pedroza, District 3
Councillor Jack Eakman, District 4
Councillor Gill Sorg, District 5
Councillor Ceil Levatino, District 6

STAFF:

Robert Garza, City Manager
Rusty Babington, City Attorney
Linda Lewis, City Clerk

I. OPENING CEREMONIES

Mayor Miyagishima called the meeting to order. Councillor Sorg led the Pledge of Allegiance.

Jennifer Martinez from PIO presented the Pet of the Week.

Councillor Sorg presented a Proclamation to Susan Brown and declared the month of April 2016 as Donate Life Month.

Councillor Sorg presented a Proclamation to Linda Coshnet and declared the month of April 2016 as Civitan Awareness Month.

Councillor Sorg presented a Proclamation to Albert Flores and declared the week of April 10-16, 2016, as Telecommunications Week.

Councillor Sorg presented a Proclamation to Elizabeth Ramirez-Valdez and declared the week of April 11-15, 2016, as 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?

There was none.

III. PUBLIC PARTICIPATION

Donna O'Daniel, Member of the Public said I'm the Chairman of the Las Cruces Support Your Local Police Committee. We are educating citizens about pressure from above and below. Our local police can protect us against threats if they are allowed to do their job without interference from outside sources.

Dolores Connor, Member of the Public gave an overhead presentation on the Election Advisory Council Strategic Plan.

Mayor Miyagishima said I think it would be difficult to put Scott Krahling on CLCTV endorsing this as he is a candidate.

Dolores Connor said we have 30 people on the council who I'm sure would be willing to do the City Beat.

Lawrence Orvis, Member of the Public said I'm a member of the American Legion Post 10 and chairman of the Veterans Advisory Board. We think veterans deserve a better way of living and that is why we are presenting the Veterans Village.

Dr. David Boje, Member of the Public gave an overhead presentation.

Shannon Reynolds, Member of the public continued with the overhead presentation.

Marci Dickerson, Member of the Public said I want to thank everyone in the building department for getting our whole process done within 30 days.

IV. READ CLOSED MEETING STATEMENT

a.) Read March 28, 2016 Closed Meeting Statement into the record.

The Las Cruces City Council met in closed session at 4:14 p.m. on March 28, 2016. The following members were in attendance: Mayor Ken Miyagishima, Councillor Kasandra Gandara, Councillor Greg Z. Smith, Councillor Olga Pedroza, Councillor Gill M. Sorg, Councillor Cecelia H. Levatino, City Manager Robert Garza, Assistant City Managers David Dollahon and Daniel Avila, Chief of Police Jaime Montoya, outside counsel Damian Martinez of Holt, Mynatt & Martinez, and City Attorney W.R. Babington, Sr. The meeting adjourned at 4:27 p.m.

The Las Cruces City Council met in closed session and only discussed those limited items as stated in the posted notice (to discuss pending litigation).

V. ACCEPTANCE OF AGENDA

Mayor Pro-Tem Smith Moved to Approve the agenda as presented and Councillor Eakman Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the agenda as presented and it was Unanimously Approved. 7-0.

VI. CITY COUNCIL MINUTES

*(1) Regular City Council Meeting of March 21, 2016

VII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

*(2) Resolution No. 16-175: A Resolution Authorizing the Game Sports Bar & Grill to Continue with the Permitting Process to Allow for the Sale and Consumption of Alcoholic Beverages within a Restricted and Secured Area on April 29 and 30, 2016, During the Las Cruces Country Music Festival.

*(3) Resolution No. 16-176: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction to the New Mexico Brewers Guild for the Public Celebration Permit Applications Submitted for Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(4) Resolution No. 16-177: A Resolution Authorizing Tractor Brewing Company to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a

Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(5) Resolution No. 16-178: A Resolution Authorizing Taos Mesa Brewing to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(6) Resolution No. 16-179: A Resolution Authorizing Spotted Dog Brewery to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(7) Resolution No. 16-180: A Resolution Authorizing Sierra Blanca Brewing Company to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(8) Resolution No. 16-181: A Resolution Authorizing Santa Fe Brewing Co. to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(9) Resolution No. 16-182: A Resolution Authorizing Red Door Brewing Co. to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(10) Resolution No. 16-183: A Resolution Authorizing Ponderosa Brewing Company to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(11) Resolution No. 16-184: A Resolution Authorizing Picacho Peak Brewing Co. to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(12) Resolution No. 16-185: A Resolution Authorizing Pecan Grill & Brewery to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(13) Resolution No. 16-186: A Resolution Authorizing Marble Brewery to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(14) Resolution No. 16-187: A Resolution Authorizing Little Toad Creek Brewery to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(15) Resolution No. 16-188: A Resolution Authorizing Little Toad Creek Distillery to Continue with the Permitting Process to Allow for the Sale and Consumption of Distilled Spirits within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(16) Resolution No. 16-189: A Resolution Authorizing High Desert Brewing Company to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(17) Resolution No. 16-190: A Resolution Authorizing La Cumbre Brewing Co. to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(18) Resolution No. 16-191: A Resolution Authorizing Bosque Brewing Co. to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(19) Resolution No. 16-192: A Resolution Authorizing Abbey Brewing Co. to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer within a Restricted and Secured Area During Blazin' Brewfest, an Event to be Held on Main Street on Saturday, May 7, 2016 from 4:00 P.M. to 10:00 P.M.

*(20) Resolution No. 16-193: A Resolution Adopting a Multi-Jurisdictional Flood Warning System Master Plan within Dona Ana County and Las Cruces for the Development of an Alert 2 (Automated Local Evaluation in Real-Time) Flood Warning System.

*(21) Council Bill No. 16-018; Ordinance No. 2777: An Ordinance Approving a Zone Change from O-1 (Neighborhood Office) and R-4 (High Density Residential and Limited Office) to C-1C (Commercial Low Intensity Conditional) on Two Properties Located at 114 N. Campo St. (0.28 Acres±) and 315 E. Griggs Ave. (0.11 Acres±) within the South Mesquite Overlay.

Submitted by Michael Johnson on Behalf of Aguirre Land Holdings, LLC, Property Owner. (Z2892).

*(22) Council Bill No. 16-019; Ordinance No. 2778: An Ordinance Approving a Zone Change from R-3 (High Density Residential) to O-1 (Neighborhood Office) on a 0.065± Acre Property Located at 520 N. Campo St. within the South Mesquite Overlay. Submitted by Edward and Diane Kruis, Property Owners. (Z2894).

VIII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

(23) Resolution No.16-194: A Resolution Authorizing the Condemnation by Mutual Agreement of Two Well Sites and Adjacent Right of Way Owned by Mesa Development Center, Inc. to Enable the Parties to Comply with the Agreement for Purchase and Sale of Water Utility Assets and to Facilitate the Acquisition.

Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-194 and Councillor Gandara Seconded the motion.

Marcy Driggers, Utilities Attorney gave an overhead presentation.

Grover Pettes, President of Mesa Development said we've been in business for 50 years delivering water. We agree with the condemnation.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-194 and it was Unanimously Approved. 7-0.

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(24) Resolution No. 16-195: A Resolution Authorizing the City of Las Cruces (City) to Accept Legislative Appropriation No. 15-0761 in the Amount of $195,000.00, Through the New Mexico Department of Finance & Administration (NMDFA) to Replace Interior Columns at the Historic Amador Hotel in Las Cruces; to Ratify the City Manager's Signature on the Contract Agreement; and to Amend the City's Adopted FY2016 Budget and FY2016 Capital Improvement Plan (CIP).

Councillor Sorg Moved to Approve Resolution No. 16-195 and Mayor Pro-Tem Smith Seconded the motion.

Eric Martin, Project Management Administrator gave an overhead presentation.

Mayor Pro-Tem Smith asked are two of the columns floating on air underneath the floor?

Eric Martin said most of them are floating or don't have any type of footing.

Mayor Pro-Tem Smith asked will the columns be restored to maintain that appearance?

Eric Martin said yes.

Councillor Levatino asked are we hoping to have the columns done by September?

Eric Martin said yes.

Councillor Levatino asked are the wood floors going to be finished?

Heather Pollard, President of the Amador Hotel Foundation said we are going to restore the floors but it will be after the columns are restored because we don't want construction to destroy the floors.

Councillor Levatino asked what are we looking at as a completion date when it will be available for events?

Heather Pollard said that's up to the City Council and City Manager. My dream is for it to be operational within five years.

Robert Garza said that vision can be attained. We will likely be able to put the building into use before the restoration is completed within the next year.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-195 and it was Unanimously Approved. 7-0.

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(25) Resolution No. 16-196: A Resolution Authorizing the City of Las Cruces (City) to Accept Grant Agreement from the New Mexico Department of Homeland Security and Emergency Management Pursuant to a Grant Funded by the Federal Emergency Management Agency for FY2016 in the Amount of $168,919.00 with a Local Match of $56,306.00, to Purchase

and Install Flood Warning Stations, to Ratify the City Manager's Signature on the Grant Agreement, to Adjust the FY 2016 Budget and to Amend the FY2016 Capital Improvement Plan (CIP).

Councillor Sorg Moved to Approve Resolution No. 16-196 and Councillor Eakman Seconded the motion.

Tony Trevino, Civil Engineer Senior gave an overhead presentation.

Councillor Pedroza asked how is the warning given?

Tony Trevino said the alerts will go to the Office of Emergency Management.

Councillor Pedroza asked is it not to the actual residents?

Tony Trevino said no but the information is available through the County website.

John Gwynne, Supervisor for the Flood Commission said the warnings go out to different entities depending on the amount of rain. Direct warnings to residents will come in the future as we get more data. I would be more than happy to demonstrate the system for you.

Councillor Pedroza asked will this be tied in with the distribution of sandbags?

John Gwynne said it's separate. The sandbags at the fire department are set out before events happen.

Councillor Pedroza asked how will the general public benefit from the plan?

John Gwynne said this will help the City and County with your community rating system. We'll be able to see the storms as they approach.

Councillor Levatino said I'm confused because I thought this would be a warning system for those in a flood area.

Tony Trevino said this provides a baseline so that when we get a certain amount of rain and what will be occurring downstream. So we have to create this baseline first to determine if evacuation is needed.

John Gwynne said this it the first system of its kind in New Mexico.

Councillor Levatino asked what is the time lapse between the time these stations collect the information and get it to the right people?

John Gwynne said to get a timeframe we have to have several storms so I would say 2-5 years to get a background history and understand what the information means.

Councillor Levatino asked how will the alerts go out?

John Gwynne said my staff and I get alarms on our cell phones. There is potential for it to go out to social media and other forms. If it is severe it will go out to MVRDA.

Mayor Miyagishima asked can residents in flood areas receive up to 20% off on their premiums?

Tony Trevino said the City is currently a number six rating so every citizen gets a 20% discount.

Mayor Pro-Tem Smith asked is vandalism ever an issue?

Tony Trevino said we will be putting fencing around them for protection.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-196 and it was Unanimously Approved. 7-0.

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(26) Council Bill No. 16-017; Ordinance No. 2776: An Ordinance to Repeal and Replace, in Its Entirety, Chapter 4 "Alarm Systems and Private Security Firms" of the Las Cruces Municipal Code (LCMC), 1997, as Amended.

Mayor Pro-Tem Smith Moved to Approve Ordinance No. 2776 and Councillor Eakman Seconded the motion.

Ted Sweetser, Fire Marshall gave an overhead presentation. He said there is a concern from the alarm industry over the confidentiality of the list of customers.

Rusty Babington, City Attorney said it will probably not be confidential. The limitations of the Inspection of Public Records is pretty narrow.

Mayor Miyagishima asked if a resident wants to see a utility bill for another resident, can they do that?

Jorge Garcia said yes.

Ted Sweetser said the National Alarm Industry President has a model ordinance and he recommended that we copy that section of confidentiality and amend that into our ordinance.

Rusty Babington said it is a state statute. A solution might be putting an obligation on the alarm companies to ensure that they keep the records.

Ted Sweetser said MVRDA uses that information to send out fines and fees to the alarm users so we would need to capture that data.

Jason Rivera, Alarm Systems Administrator said I use that information to send out billing but I treat them as confidential.

Rusty Babington said if someone requested the information MVRDA would be in a difficult position as far as denying it.

Chief Travis Brown said another concern the alarm companies had was if they collected the money, then it would increase their revenue, which is why we would receive the list and MVRDA would send out the renewal notices.

Councillor Eakman asked what have you found out through the evaluation process about the effect of false alarms?

Ted Sweetser said false alarms have decreased by 3000.

Councillor Eakman asked how does that effect departmental readiness for real emergencies?

Ted Sweetser said that statistic is hard to track. As 99% of them are false, it does take away from the service we provide.

Chief Travis Brown said we determined it was a 20 minute time line that we spent handling a false alarm.

Councillor Levatino asked if someone requests the information, what exact information are they getting?

Jason Rivera said what I get is name, address, phone number and monitoring company.

Councillor Levatino asked is there specific information on what kind of monitoring system they have?

Jason Rivera said no.

Councillor Levatino asked can we limit the amount of information given out?

Jason Rivera said when I came in I was told it was confidential. If someone does request it, we'll have to go through the records procedure that we have at MVRDA.

Councillor Levatino said I think we should write into the ordinance that the only thing that can be given is the name.

Mayor Miyagishima asked what is the minimum amount of information you need?

Jason Rivera said name, alarm location, mailing address.

Mayor Miyagishima asked do you technically not need the phone number?

Jason Rivera said no.

Rusty Babington said our ability to restrict information is limited so we could exclude the phone numbers if not needed but it will be difficult to exclude anything more than that.

Councillor Levatino asked is this information only used to send out renewal notices?

Jason Rivera said it mostly for that. I have had to rely on that list to find another contact number. Sometimes the alarm companies don't have the right numbers.

Mayor Miyagishima said if we can get it passed as a state law then it will give us the right to not give that list out.

Robert Garza said we could bring back an amendment at a subsequent date.

Councillor Sorg asked were there fines for false alarms before this ordinance?

Ted Sweetser said yes.

Councillor Sorg said I make a Motion to Amend change all the language related to renewal of alarm permits. There was no second. Motion failed.

Jason Rivera said the fees go toward the cost associated with running the program.

Councillor Sorg said did you have to keep track before this ordinance?

Jason Rivera said no. Codes would deal with these but there were too many for them to deal with and hence the ordinance.

Chief Travis Brown said part of the reason we were seeing an increase in false alarms is because we didn't have an ordinance to manage it. So there are costs to manage this program and keep alarms reduced. The yearly registration was proposed in the model ordinance given to us by the organization that represents the alarm companies.

Councillor Sorg asked how can we rectify the fact that a huge number of alarms aren't registered?

Chief Travis Brown said the software will help us be more efficient in getting renewals out. We sent out informational flyers through the utility billing. We were having trouble getting information from the alarm companies so we now have a good list.

Councillor Sorg asked do you get a list from all the alarm companies of who their customers are?

Chief Travis Brown said yes.

Councillor Sorg asked what's the consequence of not paying your permit?

Chief Travis Brown said if we respond and you have an unregistered alarm there's a $100 fine versus a registered alarm that does not get penalized under the third false alarm.

Councillor Sorg asked what if they don't pay the $100 fine?

Chief Travis Brown said under the ordinance we can charge an additional penalty but it's not a criminal misdemeanor. We could go to a verified response, which means if the alarm goes off police and fire will not go out to that location until it is verified as a true alarm.

Mayor Miyagishima called for the roll on the Motion to Approve Ordinance 2776 and it was Unanimously Approved. 7-0.

IX. BOARD APPOINTMENTS

Mayor Miyagishima appointed Gabriel Montalvo and Rayla Buchanan to the Senior Programs Advisory Board.

Mayor Pro-Tem Smith Moved to Approve Mayor Miyagishima's board appointments of Gabriel Montalvo and Rayla Buchanan to the Senior Programs Advisory Board and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board appointments of Gabriel Montalvo and Rayla Buchanan to the Senior Programs Advisory Board and it was Unanimously Approved. 7-0.

Mayor Miyagishima appointed Anthony Kessel to the Veterans Affairs Advisory Board.

Councillor Sorg Moved to Approve Mayor Miyagishima's board appointment of Anthony Kessel to the Veterans Affairs Advisory Board and Mayor Pro-Tem Smith Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board appointment of Anthony Kessel to the Veterans Affairs Advisory Board and it was Unanimously Approved. 7-0.

X. NOTICE OF PROPOSED ORDINANCE(S) ----- ***1.) There will be no public discussion. 2.) A councillor may ask staff for clarification on the proposed ordinance(s).***

(27) Council Bill No. 16-020; Ordinance No. 2779: An Ordinance to Repeal and Replace Chapter 22 (Personnel) of the Las Cruces Municipal Code (LCMC), 1997, As Amended, to Make the City Manager Directly Responsible for Administration of the City of Las Cruces Personnel System.

Council agreed to bring back.

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(28) Council Bill No. 16-021; Ordinance No. 2780: An Ordinance Repealing Las Cruces Municipal Code 1997 (LCMC), Section 2-1347, Entitled "Water Acquisition and Management Fund," and Enacting Replacement LCMC, Section 2-1347 to be Entitled "Water Rights Fund."

Council agreed to bring back.

XI. CITY COUNCIL MEMBER BOARD REPORTS

There were none.

XII. GENERAL DISCUSSION

b.) Council

Councillor Gandara said I've been working with Kari Bachman at Place Matters on the idea of time banking.

She said I attended newly elected official training on Saturday in Albuquerque.

Councillor Pedroza said I attended Organize by Ngage on pre-birth and early childhood and Grad Nation at the Corbett Center with the aim of increasing the number of graduates.

She said the newspaper has been making it obvious that the Zika Virus is possibly coming to our area and it is mosquito season residents should be careful.

She said I visited the BMX park. It is run by volunteers and well maintained. I want to make sure people are aware that it's another activity here.

She said there are areas on Missouri that need attention. I was told that once NMDOT is done with their construction, it becomes the jurisdiction of the City again.

Robert Garza said I've brought this up to NMDOT and we will be removing the medians promptly.

Councillor Eakman said I want to thank staff for an excellent presentation at our district 4 meeting.

Councillor Sorg said two graduates from the Creative Media Institute at NMSU were honored for films they made.

Councillor Levatino said the Ngage Community Partnership Summit at NMSU was fascinating with a lot of great speakers. There were middle school students who had their own breakout sessions.

She read a letter from the Vietnam War Memorial Committee.

She said I think we should take action on a study of what it's going to take to widen North Telshor Boulevard.

Mayor Miyagishima said it depends what's in the budget and if it needs more money we'll have to bring it before Council.

Robert Garza said I'll have our operations staff look at it.

Mayor Pro-Tem Smith said I also attended the Ngage Luncheon. The idea of a children's museum was brought up.

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a.) Mayor

Mayor Miyagishima said I think we need to look at Madrid Street for repairs also.

He said I wanted to see about moving the filing date for candidates from 42 days to give more time for the public to get to know the candidates.

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c.) City Manager

Robert Garza said the budget development process is moving along well. We'll have a work session on the 25th for the budget along with a public hearing.

He said we're also going to have a TIDD Board meeting on the 25th to start at 11 a.m. to tour Downtown.

He said Friday, April 22nd there will be a ribbon cutting for the remote control airplane airport.

Mayor Pro-Tem Smith Moved to Adjourn and Councillor Eakman Seconded the motion.

Mayor Miyagishima said all of those in favor signify by saying "Aye."

Council said "Aye."

Meeting Adjourned at 4:06 p.m.

Mayor

City Clerk

(SEAL)