City Council
of the
City of Las Cruces

Regular Meeting

February 7, 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	Esther Martinez, City Clerk
Councillor Olga Pedroza, District 3	
Councillor Nathan Small, District 4	
Councillor Gill Sorg, District 5	
Councillor Sharon Thomas, District 6 **By Phone**	

I. OPENING CEREMONIES

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

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.

Mayor Miyagishima presented the Distinguished Service Award to Phyllis Franzoy.

Mayor Miyagishima presented a Proclamation to Shirley Daniels and April Johnson and declared February 13, 2011 as Race Relations Sunday.

Mayor Miyagishima presented a Proclamation to Dr. Gilbert and declared February 11, 2011 as Bright Star Dental Dentistry from the Heart Day.

Mayor Miyagishima presented a Proclamation to Rick Henry and declared February 12, 2011 as Mesilla Valley Preservation Day.

Mayor Miyagishima introduced David Stevens, CEO of El Paso Electric.

David Stevens, CEO of El Paso Electric gave a verbal presentation and said I want to thank all of the customers for conserving energy during this past week, in order to give us the ability to stabilize our system. We were able to pull power from some of our neighbors when we needed it which helped us out tremendously. It was necessary for us to have rolling blackouts which I apologize for but we had to create a balance decision to avoid having to shut the entire system down. We do have local generation back up and running and we have adequate power so we don't anticipate any future issues associated with this particular outage. We are going to go back and look at our design and what we did to prepare for this storm in order to find ways to improve our system.

Councillor Silva said I don't have a TV so I rely on the radio and there were a lot of rumors that came out on Friday which some of them were that we were going to have a regional blackout at midnight and that the system was frozen over. What did El Paso Electric do to address these rumors?

David Stevens said when we heard of the rumor that there was going to be a blackout at midnight, we spoke with the Emergency Management Center and explained to them that the rumor wasn't true and we told the media that is wasn't true. Regarding the system being frozen, the majority of our system is indoors but there are some sections that are outdoors because of the extreme heat of this region. There were sections that were partially iced at times so we had to dump hot water or blow torches on them to thaw them out. We did have a pipe that was six feet underground and it sprung a leak because the temperature had gotten low enough that it reached that far underground.

Councillor Connor Moved to Allow Councillor Thomas to attend the meeting via telephone and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Allow Councillor Thomas to attend the meeting via telephone and it was Unanimously APPROVED. 7-0

Councillor Silva asked are you prepared for this summer?

David Stevens said we believe we are prepared for this summer.

Councillor Connor said I just want to say that some people thought I had the inside scoop since my husband works for El Paso Electric but I found out about what was happening before my husband

did; he isn't one of the higher ups in the company so he doesn't receive that type of information immediately. I am pleased about how everything went but I'm not pleased about how El Paso Electric interacted with the community. There was no information about what was happening on your website or anywhere else. The information was put on the City's web page so you were relying on the City to get this information out to the public and I don't think that was fair to Las Cruces to have to put out all the information or to the residents. People were calling our 911 Center looking for answers about what was going on. I think you need a better communication system to individual residents and I think issues that occur in Las Cruces should be handled by the Las Cruces branch of El Paso Electric. I know that you had additional fuel cost due to this situation and I am asking that you do not pass that cost to the residents.

Councillor Pedroza said I would also ask that you do not pass that cost to the residents. Was it only due to the weather that two of your generation plants went down?

David Stevens said it was the weather that caused the plants to go down.

Councillor Pedroza said I had solar panels installed on my house last year and my electricity never went out.

David Stevens said we had to shut down power to regional blocks and there were some people who were lucky enough to be within some of the areas that we did not turn power off to, like in the area of a hospital because we wouldn't shut down power to a hospital. We did the rotation so nobody was without power for a great length of time.

Councillor Small asked should residents expect to see an increase or change in their bill?

David Stevens said I don't think so because the consumption will be down and the fuel consumption only gets updated a certain amount of times per year, I don't even know if it costs any more for us to get power from somewhere else than it does for us to generate it ourselves but we are finding out that information and we will get that information to you.

Councillor Small asked did any of your infrastructure sustain permanent damage?

David Stevens said no, not that I know of at this point.

Councillor Sorg said it is good to hear that you are going to make some changes and as part of those changes, how would you make a change in renewable energy generation?

David Stevens said the biggest challenge we have with renewable energy is with storage. It has not gotten to the point of being cost effective so I don't see us making an adjustment right now. We will continue to look at renewable energy and I believe that at some point someone will figure out a solution to the storage problem.

Councillor Sorg said I agree with my fellow Councillors that communication is very important and I think everyone learned a few lessons with this situation. I know there are natural gas generators in El Paso but did you have any natural gas generators in this area?

David Stevens said yes, we pulled a lot of power from Ashton which is a plant that isn't far from here and from Luna which is in Deming.

Councillor Thomas said I was in the hospital during the time this went on and the rumor there was that they were operating solely on generators, was that true?

David Stevens said to my knowledge, that was not true but some of the people who had generators went ahead and fired them up just in case they were cut off.

Councillor Thomas said we live between two hospitals and we didn't have any blackouts. I received a lot of calls and emails regarding the increase in bills but I want to make it clear that you can't just change your rates, you have to go through the PRC; correct?

David Stevens said that is correct.

Councillor Thomas said the City Manager of El Paso said they are going to do their own investigation on what happened and I would like to know if anything like that is happening here in New Mexico?

Robert Garza, City Manager said no, as far as I know there isn't any type of investigation in New Mexico.

David Stevens said you will be notified and you will receive the information that comes out of that report because it is public record.

Mayor Miyagishima said I want to thank you and your utility workers for doing whatever had to be done to get us back up and running. I received some complaints that some areas never received any blackouts, like the Picacho Hills area.

David Stevens said our system isn't perfect and that is one of the things that we are going to be looking at.

Councillor Small said everyone knew these cold temperatures were coming and the most disappointing thing is that things weren't done to help prepare the system to handle the cold temps.

David Stevens said we do have a pre-planning process and we did go through that process but the issue was that we haven't experienced this level of coldness before so now we are going back to see how or if we could have done things differently.

Councillor Connor said I was in constant contact with Memorial Medical Center and they immediately went to their generator on Wednesday and they moved to their diesel back up on Thursday.

Commissioner Benavidez asked what kinds of plans do they have in the northern part of the United States, are they enclosed buildings?

David Stevens said yes, to my knowledge they are almost 100% enclosed.

Commissioner Benavidez said I'm thinking that you need to build some kind of buildings and have shade during the summer, I'm thinking like the NASA buildings that can be either open or closed.

Jim Harbison, Member of the Public said I live near Mountain View Hospital and I had five power outages and some of the Councillors didn't experience one outage. I suggest that when this is restructured that you look at how the blocks are setup and the distribution so no one particular group of citizens is burdened.

Marty Ledum, Member of the Public said I have 48 years of electrical experience and I have run power plants in Fairbanks, Alaska, Brazil and in Luna. I can be of help to El Paso Electric and I would suggest that you find people who can help you. I am very disappointed with El Paso Electric.

Ralph Mitchell, Member of the Public said I would also like to offer my services to El Paso Electric.

Chris Perez, Member of the Public asked what would be the cost for the redesign and who is going to pick up those costs?

David Stevens said there is a significant cost to this and we would have to have a discussion with the community regarding the cost at that time.

Bob Butler, Member of the Public said the Electric Company is doing the best that it can but it isn't good enough.

II. <u>CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27(E)(2).</u> *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?

Councillor Connor said Sun Edison is on the agenda and it references El Paso Electric but it's not in direct with El Paso Electric so I will be voting on it.

III. PUBLIC PARTICIPATION

Russ Warner, Member of the Public said I want to remind everyone who is going to run in the upcoming election that City Council meetings aren't the place for campaigning.

Chris Perez, Member of the Public said I would like to get some questions answered regarding the Las Cruces Convention Center. We had a meeting there about two or three weeks ago regarding catering and one of the questions is how are you going to do the liquor catering and the response was that you are using Marcy Dickerson's license. I asked if you could use someone else's license as well but I still haven't received a response to that question. I was told that the City is in the process of getting their own license but are you ready to accept the liability that goes along with having a liquor license?

Robert Garza, City Manager said we have one contractor working the center and that is Global Spectrum. They are our agent and they are operating that center like a business so they are completely in charge of who is hired and all other operational decisions. We should be getting the City's liquor license very soon and once that happens then we won't have any external liquor providers in the facility.

Emil Boudreau, Member of the Public said there has been mention of the importance of communication during times of emergency but there aren't any radio stations in the City of Las Cruces that has it own backup generator which is a problem that needs to be addressed.

Charlotte Lipson, Member of the Public said I would like to know what the plans are for monitoring the Gun Show?

Chief Williams, LCPD said gun shows are regulated by the Feds/ATF but the vendors aren't required to do background checks on the people who buy their guns. We will have officers at the event to walk around for visibility but there isn't much that our local enforcement can do.

Mayor Miyagishima asked can we pass an ordinance to require background checks at these shows?

Harry (Pete) Connelly, Interim City Attorney said any attempt to control the Right to Bare Arms by a city is unconstitutional.

Councillor Thomas said there have been seventeen states that have passed legislation that requires background checks for all sales at Gun Shows.

Councillor Small said the Lions Club puts on these shows and it would benefit us to begin discussing this with them.

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 Items 2 and 12 need to be removed from the Consent Agenda for discussion.

Councillor Connor Moved to approve the Agenda as Amended and Councillor Sorg 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 January 18, 2011

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

*(3) Resolution No. 11-163: A Resolution Authorizing St. Clair Winery to Continue With the Permitting Process to Allow for the Sale and Consumption of Wine Within an Inside Restricted and Secured Area During Adventure Arts Series Events to be Held at the Rio Grande Theater, 211 North Downtown Mall, Las Cruces, New Mexico.

*(4) Resolution No. 11-164: A Resolution Authorizing the City of Las Cruces to Renew Its Membership to the National League of Cities and to Provide for Payment of Annual Membership Dues in the Amount of $5,952.00 From March 1, 2011 to February 28, 2012.

*(5) Resolution No. 11-165: A Resolution Approving the Citizen Participation Plan, as Required by the U.S. Department of Housing and Urban Development (HUD), as Part of the Preparation for the 2011-2015 Consolidated Plan and Analysis of Impediments to Fair Housing Choice for the City of Las Cruces. The 2011-2015 Consolidated Plan and Analysis of Impediments to Fair Housing Choice is Required by HUD in Order for the City of Las Cruces to Receive Community Development Block Grant and Home Investment Partnership Program Funds.

*(6) Resolution No. 11-166: A Resolution Establishing an Ad Hoc Board to Assist in the Selection of Art to be Located in City Facilities, and Authorizing the Mayor to Appoint All Members to the Ad Hoc Board in Accordance with This Resolution and Chapter Two of the Las Cruces Municipal Code, 1997, as Amended.

*(7) Resolution No. 11-167: A Resolution Approving the Vacation of a 0.193 Acre Parcel of Remnant Right of Way Located at the Corner of Mohegan Drive and Elks Drive and Transferring Ownership of the Remnant Right of Way Parcel to AED, Inc., for Payment in the Amount of $2,185.00.

*(8) Resolution No. 10-11-435: A Resolution Awarding the Bid for the Jefferson Lane Reconstruction Project, Phase II to Morrow Enterprises, Inc. of Las Cruces, New Mexico fo the Base Bid Plus Additive Alternate Member One in the Amount of $564,062.57, Plus $42,657.23 for New Mexico Gross Receipts Tax. The City Manager is Authorized to Approve Change Orders in an Amount Not to Exceed $37,017.36, for a Total Project Authorization of $643,737.16.

*(9) Resolution No. 10-11-445: A Resolution to Award an Indefinite Quantity, Indefinite Cost Price Agreement to Tyler Technologies, Inc., MUNIS Division of Falmouth, ME, for Maintenance and Support of the City's MUNIS ERP System for an Indefinitie Period Subject to Quarterly Payments in Arrears, Annual Renewals and Approved Budgets.

*(10) Council Bill No. 11-021: Ordinance No. 2601: An Ordinance Approving a Zone Change from C-2 (Commercial Medium Intensity) to C-3c (Commercial High Intensity-Conditional) for 1.83 ± Acres of Land Located at 421 Avenida De Mesilla. The Proposed Zone Change Brings the Subject Property into Compliance with the 2001 Zoning Code, as Amended. Submitted by Justin Estes on Behalf of Larry Guaderrama, Property Owner (Z2817).

*(11) Council Bill No. 11-022; Ordinance No. 2602: An Ordinance Approving a Zone Change from UR (Urban Ranch from the 1981 Zoning Code) to R-1a (Single-family Medium Density) for 0.42 ± Acres of Land Located at 7116 Cortez Drive. The Proposed Zone Change Brings the Subject Property into Compliance with the 2001 Zoning Code, as Amended. Submitted by Jeremiah Lay on Behalf of the Community Foundation of Southern New Mexico, Property Owner. (Z2818).

*(13) Council Bill No. 11-024; Ordinance No. 2604: An Ordinance Approving a Zone Change from C-2 (Commercial Medium Intensity) to C-3c (Commercial High Intensity-Conditional) for Two Properties Located at 2040 W. Picacho Avenue and 980 17th Street. The Subject Property at 2040 W. Picacho Avenue Encompasses 1.069 ± Acres and the Property at 980 17th Street Encompasses 2.00 ± Acres. The Proposed Zone Change Brings the Two Properties into Compliance with the 2001 Zoning Code, as Amended. Submitted by William & Laura Bullock, Richard & Denise Dimsha, Stanley J. Dimsha and the Fraternal Order of Eagles, Property Owners (Z2820).

VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

*(2) Resolution No. 11-162: A Resolution Authorizing the City of Las Cruces to Approve the City's Comprehensive Annual Financial Report for the Year Ending June 30, 2010.

Councillor Small Moved to Adopt Resolution No. 11-162 and Councillor Sorg Seconded the motion.

Bruce Bleakman, REDW gave an overhead presentation and said the results of this audit is that we have a clean opinion on the financial statements and it is in our opinion that you are in compliance with the material laws and regulations but there were some issues with internal audit controls. The findings that we have listed in our report are not considered to be material law compliance. We found that in some cases there were pay rates and hours worked that were entered incorrectly but they were not significant and they were isolated occurrences. The Aquatics Center construction costs were not properly recorded and a capital asset disposal was not recorded. The timely reconciliations of utility accounts receivable were not performed for the new system. There were expenditures that exceeded budgets in five funds which is a repeat finding but it is usually due to pending transactions that occur during the end of the fiscal year. There were findings for Workers' compensation claims that included procedures weren't in place to ensure they were processed correctly, leave was taken before receiving Temporary Total Disability benefit and documentation of claims paid is not maintained. The issues that were resolved included findings with the cash and investment reconciliations, the payroll processing, allowable costs, procurement, record retention, information technology, mileage reimbursements and reporting. There were findings for the Public Housing

Authority which included issues with the component unit finance reporting, rental contracts, lease agreements and W-9s, documentation of reasonable rents determination and incorrect payroll allocations for certain timesheets that were tested. We did do an audit on the Safe Traffic Operations Program and there were no material noncompliance with requirements but there were findings that included the service provider did not provide a report to facilitate determination of whether all revenue and receivables are recorded and checks routed to the City are not logged in before being routed to the service provider's bank lockbox.

Council Silva said when you do these audits, you are only doing them to the standards, you're not going into detail; correct?

Bruce Bleakman said we follow general acceptable audit standards and the standards that are issued by the Federal Government.

Councillor Silva asked can you explain the findings for the Aquatic Center?

Bruce Bleakman said it involved the timing of when the Aquatic Center began to depreciate in these statements.

Pat Degman, Interim Finance Director said during the progress of the construction, the Accounting Department will pick up certain capital costs and for the Aquatic Center in 2009 rather than leaving that as a construction item in progress it was capitalized as if the building had opened which caused depreciation to start on the building. It was corrected in 2010 and the depreciation wasn't materially mis-stated so there was no material impact to the financial statement.

Councillor Sorg said regarding the employees that were paid incorrectly, you stated that it was not significant, was it not significant to the City or to the employee?

Bruce Bleakman said I believe it was both. It was only small amounts and it certainly wasn't significant to the City.

Councillor Small said regarding the Safe Traffic Operations Program, there have been numerous compliants from residents regarding this program and I think we need to stay on our contractor as far as addressing compliants that come to us.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-162 and it was Unanimously APPROVED. 7-0

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*(12) Council Bill No. 11-023; Ordinance No. 2603: An Ordinance Approving a Zone Change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for 5.50 ± Acres of Land Located at 1300 El Paseo. The Proposed Zone Change Brings the Subject Property into Compliance with the 2001 Zoning Code, as Amended. Submitted by DK Mullin Architects on Behalf of El Paseo Limited, Property Owner (Z2819).

Councillor Small Moved to Adopt Council Bill No. 11-023; Ordinance No. 2603 and Councillor Connor Seconded the motion.

Kurt Young, Member of the Public said I'm the CEO of the Capital Group and I'm representing Laguna, LLC who is the adjacent property owner. We didn't receive the documentation to inform us of the Planning Commission's meeting at which they recommended approval of this zone change. We are opposed to the increase in density. We own a fitness center on our property that services about 4,000 people who travel in and out of our facility on a daily basis and we feel that an increase in density without having a traffic impact analysis done may negatively impact the value of our property and our business. We are asking that Council vote against the increase of density that is proposed in this ordinance.

Adam Ochoa, Planner said this is to bring the subject property into compliance with our Zoning Code.

Kurt Young said we are still opposed to the increase in zoning at this point.

Councillor Small said this gives the property a chance because nothing can be done to the property and it can't be sold until it is in compliance with the Code.

Kurt Young said maybe you can give us a week or two to go over the specifics with Adam.

Laura Guaderrama, Member of the Public said I am the wife of the subject property owner and we are only asking to be in compliance with the Zoning Code.

Samuel Barba, Member of the Public said I have lived in this City for sixty years and El Paseo has always been a busy street. There would need to be improvements made before you can increase the density of this area.

Councillor Small said we should be receiving some funding for improvements to the El Paseo and Idaho intersection which is one of the worst intersection within the City.

Mayor Miyagishima asked Councillor Thomas if she would be able to attend a phone conference regarding CDBG funds that is going to be taking place in five minutes and Councillor Thomas agreed to attend it.

Councillor Thomas left the meeting at approximately 3:30 p.m.

Councillor Pedroza asked can you assure us that there won't be an increase of businesses as a result of this zone change?

Adam Ochoa said we are hearing this zone change because the vacant Walgreens suite is being renovated to allow another business to do business there and there hasn't been anything brought before staff to increase the number of businesses in that area.

Connie Young, Member of the Public said my husband and I are the owners of Tom Young's Fitness Center and there is already a lot of traffic now and if you increase the density it will make it difficult for people in wheel chairs who cross the street to get to Albertsons. I would suggest that you table this until the City does the reconstruction of that area.

Councillor Silva said properties have to be brought into compliance when they do any repairs or upgrades on that property; correct?

Adam Ochoa said that is correct.

Councillor Silva said so they will all have to be in compliance at some point.

David Weir, Community Development Director said whether they do renovations or want to sell their property, they will have to be in compliance before anything can be done. This property is five acres which is why it has to be designated at C-3 and the uses for a C-2 and a C-3 are basically the same but the difference is with the lot size.

Samuel Barba said the traffic in that area will be increased tremendously when the Pro Market opens.

Ron Camunez, Member of the Public said I would like to know if any Traffic Flow studies have been made for this area to see what the traffic patterns are now and I'm curious to know how many accidents actually occur there on a daily basis?

Mike Johnson, Public Works Director said the recently completed El Paseo Corridor Study looked at all of the factors and I believe that report if coming to Council for their approval shortly.

Kurt Young said we are just concerned for the safety of our members and would like to request that you table this item until a traffic study has been completed.

Mayor Miyagishima said we're really not changing the focus of this property and I don't see a valid argument against it.

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 11-023; Ordinance No. 2603 and it was APPROVED. 6-0 Councillor Thomas was Absent.

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(14) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 11-168; A PUBLIC HEARING MUST BE HELD:**

Mayor Miyagishima said the Public Hearing for Resolution 11-168 is now open. Is there anyone who wishes to speak against this item?

None given.

> Resolution No. 11-168: A Resolution Approving the Transfer of Ownership of Liquor License No. 28033 From Schueller Properties, LLC to AlamoWing Las Cruces I, LLC d/b/a Buffalo Wild Wings, Located at 2750 Mall Drive, Las Cruces, New Mexico.

Councillor Connor Moved to Adopt Resolution No. 11-168 and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-168 and it was APPROVED. 6-0 Councillor Thomas was Absent.

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(15) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 11-169; A PUBLIC HEARING MUST BE HELD:**

Mayor Miyagishima said the Public Hearing for Resolution 11-169 is now open. Is there anyone who wishes to speak against this item?

None given.

Resolution No. 11-169: A Resolution Approving the Issuance of a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to Los Compas de Las Cruces, LLC, Located at 1120 Commerce Drive, Suite C, Las Cruces, New Mexico.

Councillor Silva Moved to Adopt Resolution No. 11-169 and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-169 and it was APPROVED. 6-0 Councillor Thomas was Absent.

Councillor Connor Moved for a Recess and Councillor Small Seconded the motion.

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

Council said "Aye".

Meeting Recessed at approximately 3:50 p.m. and Reconvened at approximately 4:00 p.m.

Mayor Miyagishima presented a Proclamation to Dan B. Jett, Jr. and declared February 7, 2011 as Dan B. Jett, Jr. Day.

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(16) Resolution No. 11-170: A Resolution Repealing City Council Resolution #10-003 and #05-095: Grant Application/Acceptance Process.

Councillor Connor Moved to Adopt Resolution No. 11-170 and Councillor Small Seconded the motion.

Robert Garza, City Manager gave a verbal presentation and said this resolution repeals two former resolutions that were approved by Council but were conflicting with each other. This resolution also repeals a City Manager Policy which should have never been a policy, it should of been a resolution. This cleans everything up and allows us to move forward with applying for grants in a timely fashion. Our Grant Department has put together a Grants Manual that I have approved and it includes forms and procedures for everything that we do.

Councillor Small said I support this resolution and I think this would help streamline things.

Councillor Connor said I'm not in opposition of this but in the future when we are repealing something, can you provide us with copies of what we are repealing?

Robert Garza said yes, we will do that, it was just an oversight.

Councillor Silva asked how will you handle matching fund requirements?

Robert Garza said we identify the source before we proceed with applying for a grant.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-170 and it was APPROVED. 6-0 Councillor Thomas was Absent.

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(17) Resolution No. 11-171: A Resolution to Approve a Revised Organizational Structure and to Amend the Budget.

Councillor Connor Moved to Adopt Resolution No. 11-171 and Councillor Small Seconded the motion.

Andre Moquin, HR Director gave an overhead presentation and said this will allow for the reclassification of the Finance Director position to become a second Assistant City Manager. In the new structure departments like Public Works and Community Development will fall under the Operations Assistant City Manager and the second Assistant City Manager would handle more of the Administration Services which would include the Finance Department and the HR Department.

Robert Garza, City Manager said this proposed change is not going to add any new positions and there won't be an increase in costs. We are proposing a budget adjustment to take money from our Financial Services budget which was for our former Finance Director Dr. Sutter and those funds

would be used to establish the other position.

Councillor Sorg said I like this proposal.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-171 and it was APPROVED. 6-0 Councillor Thomas was Absent.

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(18) Council Bill No. 11-020; Ordinance No. 2600: An Ordinance Approving a Major Amendment to the Sierra Norte Master Plan; a Zone Change Request from Multiple Zoning Districts to PUD (Planned Unit Development); and a Request for Approval of a Concept Plan for the PUD to Be Known as Metro Verde South. The Intent of the Concept Plan Is to Develop a Mixed-Use Development That Entails Residential, Commercial, Office, Retail, and Manufacturing Development Combined with Open Space Areas. The Subject Properties Encompass 892 ± Acres of Land and Are Generally Located South of the Future Extension of Arroyo Road, North of Thurmond (Engler) Road, and Generally West of the Future Extension of Sonoma Ranch Boulevard. Submitted by DVI on Behalf of Sierra Norte Land Holdings LLC, United Land Group of New Mexico LLC. And James A. & Josephine A. Phillips, Property Owners (PUD-10-04).

Councillor Sorg Moved to Adopt Council Bill No. 11-020; Ordinance No. 2600 and Councillor Small Seconded the motion.

Cheryl Rodriguez, Development Services Administrator gave an overhead presentation and said the City annexed this area in 2006 with a variety of zone designations and now the applicant is requesting to change these zone designations to a PUD designation. The Concept Plan purposes a mixed-use development that provides residential, office, commercial and industrial land uses with areas of open space. It identifies nine underlying zoning designations that include a neighborhood mixed-use corridor that will run along the length of the future road known as Sierra de Luna that has additional development guidelines. The proposed Metro Verde South PUD has a phasing plan that outlines the build-out of the PUD in twenty six possible phases. A total number of dwelling units allowed in the PUD will range from 5,704 to 25,443 units. The estimated population for the proposed Metro Verde South PUD is approximately 23,250. It will have direct access from the future expansions of Arroyo Road, Engler Road, Lisa Lane, Peachtree Hills Road and Sonoma Ranch Boulevard. There will be a high emphasis on pedestrian connectivity and use of bike lanes and shared use pathways. Any improvements in public ROW, including landscaping, will be dedicated

to the City and maintained by the City. They will dedicate a four-acre tract of land for civic and utility purposes and they will provide some affordable housing.

Councillor Thomas re-entered the meeting via telephone at approximately 4:35 p.m.

Harold Denton, DVI Architect gave an overhead presentation and said we are doing this because we are trying to create a better project. The density includes up to 25,000 units but that is because of the mixed-use so it includes commercial and residential units. There will be parks, roundabouts and pedestrian walkways within this area.

Councillor Silva asked what kind of deviations do you intend to do?

Harold Denton said we are dividing the roadways and providing sidewalks on one side of the street and a multi-use path on the other side of the street. There will be roundabouts within the major intersections and we will have three lane streets which should be able to carry the traffic without any problems.

Councillor Sorg said there are many good aspects to this PUD and I think anyone who lives in this area would be proud to live there but there are some troubling aspects. We recently passed a land use ordinance that projected our land use out for the next ten to twenty years and the projected growth of the City. This development would add about 23,000 people and this is a small city so I want to get this right the first time. I would like to know how much available land Las Cruces has to support what amount of people without this PUD?

Mayor Miyagishima said I think the applicant is being very proactive. They aren't required to do this and a lot of developers don't want to do it because it is too expensive.

Councillor Sorg said drainage is a major concern to the folks in my district and this property is in my district. I think the drainage that you have proposed is very good but there are a couple of things that concern me. Has anyone done a study on the storm events that could happen here?

Harold Denton said yes and I can assure you that this drainage system is the best concept I have ever seen for the desert.

Councillor Sorg said should this be built-out as is, the only access you have is Sonoma Ranch Boulevard. Will Engler Road connect to either Rinconada or Roadrunner?

Mr. Murphy from the audience said yes.

Councillor Sorg asked how soon will that happen?

Harold Denton said we have more than one access right now. We have access through Sonoma Ranch and Jornada Road.

Councillor Sorg said that still concerns me. Another issue is with the parks, does this PUD allow for the recommended 6.5 acres per thousand people?

Brian Denmark, Interim Assistant City Manager said I don't recall what their specific proposal is but I know that it is in excess to our current policy for minimum standards. At this level, they haven't submitted a Development Plan so we don't know the specific amenities or design for these parks.

Councillor Connor said I want to mention that some of these things like the trails are already there from our originally approved plan, this is just a modification to that plan. I am pleased to see that this would add a sizable increase to affordable housing.

Councillor Small said this is kinda the beginning of a Smart Code in Las Cruces and one that is welcome. You stated that you will be using purple pipe, what are some of your other water saving features?

Harold Denton said we will restrict the landscape water uses by using different types of plants and we are requiring the building to do a list of things that are "Green."

Councillor Small said I think this is a step in the right direction and it is important that we keep an open dialogue going between the developer and the City.

Councillor Sorg asked is the drainage going to be concrete or natural?

Harold Denton said natural.

Councillor Pedroza said I am very impressed with this presentation so far. A lot of the deviations that you are asking for are for smaller lots; correct.

Harold Denton said a lot of the lots are small but that is a product of today; lots and houses are getting smaller and more compact.

Councillor Pedroza said I like the idea of building as "Green" as possible but I would suggest that you put gutters on the roofs of the houses that you build.

Harold Denton said we are having drains put on our flat roof homes that will have a drain pipe going out to the yard.

Councillor Thomas said I think this is a terrific concept. Have you worked with the schools to see if they can handle this capacity?

Harold Denton said we have spoken with the schools but they pretty much do their own studies and make their own decisions. This is going to be a long-term build-out of over twenty to thirty years.

Councillor Thomas said our staff is working on creating a Smart Code and I hope your staff will work with our staff to show them what you have already done.

Councillor Small asked have you thought about equestrian connectivity access?

Harold Denton said there was some discussion about it and it could be incorporated.

Al McBrayer, Member of the Public said I think this is a good plan.

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 11-020; Ordinance No. 2600 and it was APPROVED. 6-0 Councillor Pedroza was Absent.

VIII. BOARD APPOINTMENTS

Mayor Miyagishima appointed Val Maltese to the Airport Advisory Board.

Councillor Connor Moved to Approve the Mayor's Board Appointment of Val Maltese to the Airport Advisory Board and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's Board Appointment of Val Maltese to the Airport Advisory Board and it was APPROVED. 6-0 Councillor Pedroza was Absent.

IX. REVIEW OF PROPOSED ORDINANCE(S)

(19) Council Bill No. 11-025; Ordinance No. 2605: An Ordinance Authorizing a Real Estate Purchase Agreement Between the City of Las Cruces and the United States of America, for the Sale of 15 Acres of Municipally Owned Land in the West Mesa Industrial Park for the Purchase Price of Six Hundred Thousand Dollars ($600,000.00) in Accordance with Provisions of Section 3-54-1, NMSA, 1978, as Amended.

Mayor Miyagishima and Council agreed to bring this item back.

(20) Council Bill No. 11-026; Ordinance No. 2606: An Ordinance Authorizing an Option to Lease Agreement Between the City of Las Cruces and SunEdison, for the Thirty Year Lease of up to 200 Acres of Municipally Owned Land in Section 2, South of the West Mesa Industrial Park, for the Purpose of Developing a Solar Energy Project.

Mayor Miyagishima and Council agreed to bring this item back.

X. GENERAL DISCUSSION

1. MAYOR

Mayor Miyagishima said regarding the AM Radio Station, in 2005 we did an RFP but there weren't any FCC Licenses available so it killed that idea. The Police Department does have Nixle available and the City is going to apply to it so we can also do updates through Nixle.

I would like to thank Dr. Garcia, his staff and Eric Lopez for doing all that they could to keep our water going during the cold storm last week.

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2. CITY COUNCIL

Councillor Thomas said I was in the hospital last week and I felt useless during the storm so I am very grateful for the support given by City staff.

Regarding the Gun Show, it is a big loop hole because these people who call themselves occasional sellers aren't required to do background checks. We will have to work at the State level to try to require background checks at all the Gun Shows.

Councillor Sorg said I want to congratulate the City staff on doing what you do.

I agree with Councillor Thomas's concerns regarding the Gun Show.

I had a compliant about natural gas pressure dropping and I was wondering if it was a demand issue or is there more to it?

Jorge Garcia, Utilities Director said there were a couple of areas that had a low pressure system and these areas are fairly new areas that we brought up so we will be doing some retrofitting to be able to accommodate those areas. We believe the system held up fairly well due to the high demands.

Councillor Small said I also want to thank City staff for all their help during our crisis situation. El Caldito had extra shifts and it was heart warming to see the community come together during this time.

I want to thank Chief Williams for laying down the groundwork for the Briarwood area which currently has significant issues.

The Picacho Pride Project is continuing to move along and I think it has received some significant interest from some folks within the business community.

Councillor Pedroza said I also want to congratulate City staff and the community.

I will begin my walks at Young Park on Mondays, Wednesdays and Fridays.

I visited the Community of Hope a couple of weeks ago and they were talking about the closure of the Good Start Thrifty Store. The Community of Hope worked very closely with that thrift store and one of the main reasons that they were going to miss that store was because of the shoes that they could get from the store. I would like to know if there is some way that the City could find a way to acquire people's old shoes that we could provide to the Community of Hope?

Mayor Miyagishima said I will be having my District Meetings in March and we can ask people attending the meeting if they could bring us shoes.

Robert Garza, City Manager said I want to make it clear that we don't want people bringing their old shoes to City Hall but rather take them to the Community of Hope.

Councillor Connor said I was stuck in Santa Fe during the storm and there wasn't even a Greyhound Bus running from Santa Fe to Las Cruces which is even more of a reason for us to try to workout an agreement with Greyhound to stay in Las Cruces.

I think the City staff did an outstanding job during the storm and I think it was because of the leadership between the Directors and their knowledge of what makes this city tick. Memorial Medical Center was very concerned about their hospital because they had a full house and a twelve-inch water line broke on Telshor which was fixed by the City on our side but they were concerned about what would happen to the waterline on their side. The Fire Department set up a tent and helped them heat that waterline, they went above and beyond to make sure the hospital maintained their water supply. We found out today that the compressed natural gas system isn't operational because it is frozen. I can understand that Frenger Pool didn't survive the freezing temperatures but I would like to know how long the Regional Aquatic Center is going to be closed?

Brian Denmark, Interim Assistant City Manager said we are planning on opening it on Wednesday. There was a broken water pipe that had to be repaired and we have to reheat the facility. Regarding Frenger Pool, there were pieces within the broiler that cracked so we've had to remove the boiler and now we are waiting on parts to repair it.

Councillor Connor said something we didn't consider was there are all electric homes that were built in the Telshor area and they had absolutely nothing during the blackout. There was no water to the residents behind A Mountain for five days. Did we loose any time on the streets that were approved for paving?

Mike Johnson, Public Works Director said we lost maybe four days but we will be able to resume once the temperatures get back to normal.

Councillor Connor asked why don't we have a battery backup system for our traffic lights?

Mike Johnson said some of our newer signals do have the ability to have a battery backup; however, some of our signals are about fifteen to twenty years old and aren't equipped for battery backup.

Councillor Connor said I think we need to consider having some kind of backup for our high traffic intersections.

Councillor Silva said I want to give kudos to the City staff, everyone did a great job. It still states on our website that City offices are closed and I think we need to take that off.

Regarding the City's liquor license, is that something that we will bid out as a separate item or will we automatically be giving it to Global?

Robert Garza, City Manager said no, the City will be the owner and the service for dispensing of that liquor will be Global.

Councillor Silva asked would we be able to utilize that license at other City locations?

Harry (Pete) Connelly, Interim City Attorney said no.

Councillor Silva said I'm going to make a comment, I don't like being placed in a position that I have to vote on something else. I think Mr. Denton made it clear that he didn't have to bring this project forward and we didn't have to go this route; however, to make the statement that by doing this it gives the other "umph"; the way I look at it there are two separate items and one shouldn't have to drive the other.

Regarding the Audit, I'm not too comfortable with the guaranteed price maximum that we had contracted with the Convention Center and the Aquatic Center. I would still like to see an independent that specializes in contracts only and eventually work into some kind of community audit committee.

I would like it if at a future workshop we could look at the El Paseo Project so people can see what is there now and what could be there in the future.

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3. **CITY MANAGER**
   A. Annual Report on the Investment of the Telshor Lease proceeds as required by Policy – Robert Scaling, Treasurer.

Robert Scaling, Treasurer gave an overhead presentation and said the good news is that the equity part of the Telshor facility investment had almost a $2 million increase for 2010 and the better news is that today, the DOW closed at $12,161 which reflects about a 5% increase since December 31st. There was about a $2 million distribution from the malpractice escrow account and that account is now closed. Our refund amount from that account was $2 million and the other $60,000 or so is the residue income from the investment. Right now it's just over $26.4 million and it started at about $24 million so we are ahead of the game. We would like to continue on our current path but if Council wants to have some kind of change to it then we would need to do a resolution for those changes.

Councillor Pedroza asked could we use some of those funds for the proposed Crisis Center?

Robert Scaling said the money is there but it would be Council's decision. You would have to invade the corpus, the interest adds up to about $400,000 per year depending upon the interest rates.

Mayor Miyagishima said I believe the interest rates should be on the rise which would help our equity fund but it may hurt the permanent fund. We may want to revisit this in about three or six months from now.

B. Storm/Freeze of February 2011

Robert Garza, City Manger said about 65% of our workforce was working during the storm. We will be able to track who was working and who was not working during those days administratively. I have asked staff to give me a full report by department of all the impacts from the storm and that report will be summarized and given to Council.

Mayor Miyagishima said maybe we can have a work session after we receive the report so we can discuss what we did right, what we did wrong, and what we can improve.

C. Other items - Information Only.

Meeting Adjourned at 6:43 p.m.

Mayor

ATTEST:

City Clerk

(SEAL)