



**City Council  
of the  
City of Las Cruces**

**Regular Meeting**

**April 26, 2010  
5:00 P.M.**

**Council Chambers, City Hall**

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**MEMBERS PRESENT:**

Mayor Ken Miyagishima  
Councillor Miguel Silva, District 1  
Councillor Dolores Connor, District 2  
Councillor Olga Pedroza, District 3  
Councillor Nathan Small, District 4  
Councillor Gill Sorg, District 5  
Councillor Sharon Thomas, District 6

**STAFF:**

Terrence Moore, City Manager  
Harry (Pete) Connelly, Interim City Attorney  
Esther Martinez, City Clerk

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**I. OPENING CEREMONIES**

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

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and Jane Carter presented the Pet of the Week.

Councillor Thomas presented a Proclamation to Governor Henry Torres and declared the week of April 26<sup>th</sup> thru May 2, 2010 as Piro-Manso-Tiwa Tribe of Guadalupe Pueblo week.

Mayor Miyagishima presented a Proclamation to Joseph Benavidez and declared April 27, 2010 as Joseph Benavidez Day in Las Cruces.

Councillor Thomas presented a Proclamation and declared May 1, 2010 as Silver Star Service Banner Day.

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Mayor Miyagishima read a closed meeting statement and said the Las Cruces City Council met in a closed session at 1:04 p.m. on April 26, 2010 and the following members were in attendance; Mayor Miyagishima, Councillor Silva, Councillor Connor, Councillor Pedroza, Councillor Small, Councillor Sorg and Councillor Thomas. The discussion was limited to those items that were stated in the posted notice which was to discuss limited personnel matters relating to City Manager Terrence Moore. The meeting adjourned at 3:57 p.m.

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**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?

None given.

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**III. PUBLIC PARTICIPATION**

None given.

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**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.**

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

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

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**V. UNFINISHED BUSINESS**

- (1) Council Bill No. 10-032; Ordinance No. 2561: An Ordinance Approving a Zone Change From H (Holding) to R-3C (Multi-Dwelling Medium Density-Conditional) for 9.00 +/- Acres Designated as Parcel No. 1 and a Request for a Zone Change From H (Holding) to C-3C (Commercial High Intensity-Conditional) for 8.225 +/- Acres Designated as Parcel No. 2 Each Located North of Peachtree Hills Road and West of Jornada Road. The Properties are Part of the Peachtree Hills Master Planned Area. Submitted by Summit Engineering on Behalf of Ernesto Uranga, Property Owner. (Z2807).  
***(TABLED FROM 2/22/10)***

Councillor Small Moved to remove Council Bill No. 10-032; Ordinance No. 2561 from the Table and Councillor Connor Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to remove Council Bill No. 10-032; Ordinance No. 2561 from the Table and it was Unanimously APPROVED. 7-0

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David Weir, Community Development Director said this is for the annexation of the elementary and middle schools off of Peachtree Road and the applicant wishes to withdraw this from your consideration. Staff recommends that you vote to deny this ordinance.

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Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-032; Ordinance No. 2561 it FAILED. 0-7

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**VI. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION**

- (2) Council Bill No. 10-044; Ordinance No. 2573: An Ordinance Approving a Zone Change from R-1A (Single-Family Medium Density) to R-2C (Multi-Dwelling Low Density-Conditional) for 4.27 +/- Acres Located at 2707 Spitz Street. The Purpose of the Zone Change Is to Allow the Use of an Assisted Living/Retirement Facility on the Three (3) Subject Parcels. Submitted by Lilley Engineering Inc, on Behalf of Lorin Davis and Matthew & Tracy Ayers, Property Owners. (Z2809).

Councillor Small Moved to Adopt Council Bill No. 10-044; Ordinance No. 2573 and Councillor Connor Seconded the motion.

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Gary Hembree, Community Development Senior Planner gave an overhead presentation and said the reason for this zone change request is to allow for an assisted living retirement facility and the property is currently vacant. Planning and Zoning recommended approval of this zone change with the condition that all new utilities shall be placed underground.

Mayor Miyagishima said I think this is a great location for this type of facility.

Councillor Connor asked what is the time table for this project?

Dan Lilley, Lilley Engineering said we are planning on beginning construction around the end of this year.

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Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-044; Ordinance No. 2573 and it was Unanimously APPROVED. 7-0

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- (3) Council Bill No. 10-045; Ordinance No. 2574: An Ordinance Approving a Zone Change from M-1/M-2C (Industrial Standard-Conditional) for the Purpose of Removing a Condition on the Existing Zoning of the Subject Property That States That Pursuant to the West Mesa Industrial Park Development Plan, Communication Structures Are Limited to the Northeast Quadrant of the Industrial Park. The Applicant Is Proposing to Install a 120 Foot Tall Communication Structure. The Subject Property Encompasses 4.59 +/- Acres, Is Located West of Armory Road and North of Interstate 10, and Is Not Within the Prescribed Boundaries of the West Mesa Industrial Park Overlay Zone. Submitted by Scott Dunham, Reliant Land Services, on Behalf of Michael Flynn & Elizabeth Marrufo, Property Owners. (Z2810).

Councillor Connor Moved to Adopt Council Bill No. 10-045; Ordinance No. 2574 and Councillor Sorg Seconded the motion.

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Gary Hembree, Community Development Senior Planner gave an overhead presentation and said the purpose of this zone change is to remove the existing condition that states communication towers are not allowed on the subject property. The owner would like to construction a 2500 square foot fenced area that will contain a 276 square foot shelter to accommodate a 120 foot tall communication facility. There was a preliminary federal aviation administration study done and the study showed

that the subject property would be able to accommodate a tower in excess of 182 feet in height and the proposed 120 foot tower would not cause a hazzard. The tower will be illuminated as a precaution for the airport. The Planning and Zoning Commission did hear this request on February 23, 2010 and they recommended approval with the conditions that the maximum height is limited to 120 feet and that the structure will be illuminated in accordance with the FAA Advisory Circular 70/7460-1K.

Councillor Small asked would this be opening the door for more cell towers to be constructed?

Lisa Murphy, Airport Manager said that is always a concern but I don't think this case would cause much of a problem.

Scott Dunham, Property Owner Representative said there will be adequate space inside our fenced area for three or four additional providers to construct towers.

Councillor Connor said I believe this presentation was also given to the West Mesa Strategic Planning Board but I don't see the minutes of that meeting included with our packet and I think they should be included.

Gary Hembree said I agree.

Esther Martinez, City Clerk said if you want those minutes to be included then you will need to make an amendment for the record.

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Councillor Connor Moved to Amend Council Bill No. 10-045; Ordinance No. 2574 to include the January 21, 2010 minutes of the West Mesa Strategic Planning Board and Councillor Pedroza Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 10-045; Ordinance No. 2574 to include the January 21, 2010 minutes of the West Mesa Strategic Planning Board and it was Unanimously APPROVED. 7-0

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Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-045; Ordinance No. 2574 as Amended and it was Unanimously APPROVED. 7-0

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- (4) Council Bill No. 10-046; Ordinance No. 2575: An Ordinance to Amend the City of Las Cruces Municipal Code, Chapter 36 - Sign Code. The Amendment Includes (1) the Addition of Regulations for On-Premise and Off-Premise Electronic Variable Message Displays; (2) The Addition of Regulations for the PUD and R-4 Zoning Districts; (3) Incorporates New Definitions; (4) The Addition of Regulations for Neighborhood Signs; (5) Clarifies the Enforcement Authority for the Removal of Illegal Signs; and (6) Changes the Maximum Allowed Height for Freestanding Signs in Both the C-3 and M-3 Zoning District. Submitted by the City of Las Cruces (SICA-09-01).

Councillor Small Moved to Adopt Council Bill No. 10-046; Ordinance No. 2575 and Councillor Thomas Seconded the motion.

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David Weir, Community Development Director gave an overhead presentation and said this is an amendment to the Las Cruces Sign Code to include six areas that need to be addressed which are to remove all references to the electronic variable message displays, regulations for the PUD and R-4 zoning districts, incorporate new definitions, regulations for neighborhood signs, clarify enforcement authority for the removal of illegal signs and change the maximum height for freestanding signs in both C-3 and M-3 zoning districts. Staff suggests that we have a work session to discuss the electronic variable message displays and outdoor lighting issues.

Mayor Miyagishima said we can have the work session on July 11<sup>th</sup>.

Councillor Silva said these electronics signs just started popping up all over town; is it because we didn't address them in our code?

David Weir said that is correct; the code is silent when it comes to these billboards.

Councillor Silva asked what would happen to the billboards that are already in place if we stop allowing them?

David Weir said it is my understanding that they would be grand-fathered in because they were legal when they were put up.

Councillor Silva asked can we stop allowing them to be put up until we make a decision?

Mayor Miyagishima said that has never been done and I wouldn't support it because there are some that could tone it down a little but they don't cause a hazzard. We have to come up with a balance because these signs are advertisements for businesses which generate our GRT taxes.

Councillor Silva said I think we need to have a period where we don't allow permits for these types of signs because once they are put up then they are grand-fathered in and we can't control what they put up.

David Weir said that isn't an issue that is before you, today.

Councillor Thomas asked how many signs have already gone up?

David Weir said I don't know the exact number but I know there have been quite a few go up on Telshor, Main Street and some on Valley Drive.

Councillor Thomas said if we don't have a work session until July then there could be a whole bunch of these types of signs going up without any regulations.

Mayor Miyagishima asked is there something that could be done administratively until we discuss these issues?

David Weir said I think staff would have to have several complaints to consider it a nuisance but I would like to say that the companies that do these signs have been very accommodating with any request that we've had regarding these signs.

Councillor Connor said there are a lot of restrictions regarding billboards already in place and changing a sign to an electrical sign is very expensive so we're not going to see billboards on every corner or have a bunch going up within the next two months.

Councillor Pedroza said it seems to me that we are providing people an incentive to put up these types signs because we are saying that for the next two months, there is nothing that we can do and if they put up a sign then it will be grand-fathered in. Is there something we could do to deter them?

Mayor Miyagishima said we can't really do anything right now because it wasn't on the agenda. We could probably move the work session to sometime during the week of June 21<sup>st</sup> so we can discuss this sooner.

Councillor Thomas said I want to mention that there is going to be a webinar on May 5<sup>th</sup> regarding signage.

David Weir said that is correct and it will be open to the public.

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Councillor Connor Moved to Amend Council Bill No. 10-046; Ordinance No. 2575 to remove the proposed language for on-premise and off-premise electronic variable message displays and Councillor Thomas Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 10-046; Ordinance No. 2575 to remove the proposed language for on-premise and off-premise electronic variable message displays and it was Unanimously APPROVED. 7-0

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Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-046; Ordinance No. 2575 as Amended and it was Unanimously APPROVED. 7-0

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**VII. BOARD APPOINTMENTS**

None given.

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**VIII. REVIEW OF PROPOSED ORDINANCE(S)**

None given.

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**IX. STATUS/UPDATES ON CURRENT PROJECT LIST**

1. **State Legislative Fall Back**
2. **Strategic Plan** - *(Implementation documents being prepared, finalizing plan for council review and consideration.)*
3. **Las Cruces Convention Center** – *(Exterior steel framing, sheathing and insulation in process including roof membrane installation, mechanical and electrical rough-in as well as completion of fireproofing of beams and columns. Site work continues with installation of water and gas utilities, concrete pour for loading dock as well as for trellis areas.)*
4. **Downtown Main Street Construction** - *(The project design is ongoing with Bohannon-Huston, Inc. Bohannon-Huston has completed the design for the north end portion of the project. The City is currently in the process of receiving final prices for the northern portion*

*and should be going to Council for approval in April /May 2010. Bohannan-Huston has begun the design of the southern portion of the project)*

5. **Impact Fees** – *(The project is on-going. The project is in Phase II - Development of the Impact Fee Capital Improvements Plan (IFCIP). The project Consultant prepared a summary of the service area options derived from the discussions held by the City Council during the Work Sessions in March, April, and May of 2009. The purpose of the summary is to provide information in a concise format for the CIAC and City Council to use in making their decision on which service area option to use in the IFCIP document to calculate the impact fees. Staff presented the summary document to the CIAC for the first time on November 19, 2009. The CIAC further discussed the service area options at their meeting on December 17, 2009 and made a recommendation of Option 3: "'Growth Area' Impact Fees only". The summary document and recommendation from CIAC were presented to the City Council at the January 11, 2010 City Council work session. Staff presented additional information at the February 17, 2010 City Council work session. City Council directed staff to proceed with exempting the "In-fill" area of the city; keeping the Public Safety fee as a city-wide fee; and, to consider excluding or showing the West Mesa Industrial Park separately. Staff will proceed with a resolution for approval by the City Council to solidify this direction. Staff is working with the consultant to modify the contract to redo the Land Use Assumptions and proceed with finalizing the Impact Fee Capital Improvements Plan.)*
6. **Vision 2040** – *(The current drafts are posted on the Vision 2040 website (<http://vision2040.nmsu.edu>) and are available on CD and in print upon request. Staff has submitted comments to the consultant based on public input and staff review. Revised drafts are forthcoming.)*
7. **Citywide Swimming Pool Enhancement Program** – *(Several building related activities continues for the aquatic center including but not limited to texture gypsum board ceilings, electrical, fire sprinkler, mechanical-HVAC trim, aluminum window system installation and painting of CMU walls. Pool construction activities include finishing rebar and beginning shotcrete for leisure pool area, work in pump pit area as well as mechanical room. Site work includes utility connections and grading.)*
8. **Development and Construction of the Intermodal Facility** - *(The Selection Advisory Committee completed the interviewing and rating process of the top three highest ranked firms and a selection has been made. Staff will begin contract negotiations with the top selected firm and will forward a proposed contract to City Council for consideration in the near future.)*
9. **Bicycle Facilities Planning** - *(May is National Bicycling Month. The Education and Encouragement Work Group of the Bicycle Friendly Community Task Force (BFC) is working on several ideas for events in May. The proposals include a series of neighborhood bicycle rides, a series of articles promoting bicycling in Las Cruces, Bike to Work Day on May 21<sup>st</sup>, the Ride of Silence on May 19<sup>th</sup>, and a proclamation declaring May as National Bicycle Month.)*

10. **EPA Smart Growth Implementation Assistance Program (SGIA)** - *(Phase One continues on the project, titled: Making Redevelopment Work for the Neighbors: The El Paseo Project. The main purpose of the project is to develop a robust public participation model for deliberative planning and visioning. The EPA staff team and federal partners from Federal Highway Administration (FHA) and Housing and Urban Development (HUD) together with City staff, policy makers, and stakeholders conducted an initial site visit in January 2010 which included a tour of the El Paseo area and meetings with business, transportation, housing and policymaking groups. The Scope of Work continues to reflect new resources from the federal partners. For example, monies for potential economic development strategies may be available. Future events are being discussed like a Walk & Safety Audit in late April/early May and two visioning charrettes in the fall of 2010. Staff is continuously reaching out to a diverse set of public and stakeholders in the El Paseo area, and is available to discuss this project with any interested parties or individuals. Regular conference calls occur on Tuesday from 1:00-2:00 PM in Room 1158, City Hall, 700 Main Street.)*
11. **New City Web Site** – *(The new web site is scheduled to go live in the July-August timeframe. Content from the current web site is being migrated to the new site. Some significant re-work of content is required to provide a unified design and user interface functionality, and to upgrade existing content to ADA and Section 508 standards. Departmental stakeholders (who will be responsible for authoring content) have been involved in a number of meetings to provide inputs on the new web site as well. The new site will support greater citizen engagement by providing citizens the ability to receive information via RSS feeds, newsletters, and alerts, as well as providing new content and capabilities. The next phase in the project will involve training departmental authors in the use of the content management system editor, authoring methods, and pertinent standards, guidelines, and laws.)*
12. **Downtown Revitalization Activities** - *(Construction on La Placita has been delayed until mid April. Construction is expected to take 6 months. The legislature has passed the Las Cruces TIDD and the Governor has signed it.)*
13. **Police Auditor Procurement Update**
14. **Grants/ARRA Status** - (Matrix.)

Councillor Thomas said I would like some information regarding the impact fees.

Mike Johnson, Public Works Director said we should be coming before Council on May 17<sup>th</sup> or the following meeting in June to formalize the Council's direction to select the service areas and we will also have a change order for our consultant, at that time.

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- X. **GENERAL DISCUSSION**
  1. **MAYOR**

Mayor Miyagishima passed.

## 2. CITY COUNCIL

Councillor Thomas said I received an email from the Astronomy Club asking me to thank Rudy Trevino for all his work at their event last Saturday.

I would like to get an update on our red light cameras.

Terrence Moore, City Manager said we are making contact with John Hummer who is our representative with the Department of Transportation and I will be bringing forward an update after our discussions.

Mike Johnston, Public Works Director said I want to mention that there will be a Council Work Session on May 10<sup>th</sup> regarding options on this issue.

Councillor Thomas said some of us that went to Washington, D.C. got a book on urban and suburban smart growth and I got extra copies which I'm passing out to Council.

Councillor Sorg said this weekend is the River of Birds Event in Lordsburg.

On May 11<sup>th</sup>, Representative Cody, Senator Fishman, Commissioner Krahlung and myself will have a Town Hall Meeting at the Mesilla Valley Hospital on Del Rey at 6:00 p.m.

Councillor Sorg read a memo from Connie Sharp and said a generation building has been proposed on a very wide utility easement that adjoins with a residential housing area. This residential area will be affected by this industrial use and we have a petition with several signatures against allowing a permit to be used for this type of use on this property.

Councillor Small said I would like to thank Shelley Modell and others for their participation in our meeting last week regarding the PACE Program.

Some of us have met with individuals who are interested in a potential renewable energy application for El Caldito.

It is now my turn to start setting up public meeting regarding the El Molino Project and I am trying to set something up at Mayfield High School.

District 4 is ground zero for mosquitos and we will be putting the information up for our mosquito hotline very soon.

Mayor Miyagishima said I would like to know if a Work Session on June 17<sup>th</sup> would work for everyone?

No consensus was given and Mayor Miyagishima said I will work on finding another date.

Councillor Pedroza said I want to acknowledge that there is now a sign saying "Watch Your Step" for the first step in Chambers.

I want to remind everyone that there will be a District 3 neighborhood meeting at Sierra Middle School on May 4<sup>th</sup> at 5:30 p.m.

Councillor Connor said I would like to ask Isaac Chavez to tell us about his new appointed position.

Isaac Chavez, Member of the Public said I was appointed as the Chief Executive Officer of the Las Cruces Association of Realtors.

Councillor Connor said the University District that was approved in April, I have forward my recommendations and applications for members of that board to Esther Martinez, City Clerk. I am still working on a representative for NMSU.

I want to thank the Public Works Department for sending out the prison crew to Farney Road to help out the residents with all the sand that blew over from the property across the street.

Mayor Miyagishima said Mayor Pro-tem Thomas and myself will be out of town on June 14<sup>th</sup> so we will need to appoint someone to chair that meeting.

Esther Martinez, City Clerk said there are rules regarding that situation in the Municipal Code but I will look into it and let you know how to proceed.

Mayor Miyagishima said I will probably just let Councillor Connor chair the meeting.

Councillor Silva said I was concerned with the article in the newspaper regarding the red light cameras and I feel if the State says we should remove the cameras then we should remove them.

Mayor Miyagishima said there is a safety issue which is why we installed the cameras in the first place.

Councillor Sorg said I would like the City Manager to email us any information he may have on what Santa Fe and Albuquerque are doing about this issue.

Terrence Moore said we will be giving you an update on that issue and that presentation should contain that information.

Esther Martinez said I was able to find the information regarding the issue with the Mayor and Mayor Pro-tem being absent from a meeting; In section 2-27 E, Item 1 of the Las Cruces Municipal Code it states that if the Mayor and the Mayor Pro-tem are absent from a meeting then the Council amongst themselves shall vote by a majority vote who will chair the meeting.

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

None given.

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**Meeting Adjourned at 7:05 p.m.**

  
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Mayor

ATTEST:

  
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City Clerk

(SEAL)