City Council
of the
City of Las Cruces

Regular Meeting

April 20, 2015
1:00 P.M.
Council Chambers, City Hall

MEMBERS PRESENT:

Mayor Ken Miyagishima
Councillor Miguel Silva, District 1
Councillor Greg Smith, District 2
Councillor Olga Pedroza, District 3
Councillor Nathan Small, District 4
Councillor Gill Sorg, District 5
Councillor Ceil Levatino, District 6

STAFF:

Robert Garza, City Manager
Rusty Babington, City Attorney
Esther Martinez-Carrillo, City Clerk

I. OPENING CEREMONIES

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

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

Mayor Miyagishima, Councillor Pedroza and PIO Staff presented awards to the CLCTV Student Video PSA Contest winners.

Councillor Pedroza presented a Proclamation to Randy Harris and declared April 2015 as Mountain View Market Cooperative Month.

Councillor Pedroza presented a Proclamation to the Parkinson's Disease Support Group of Southern New Mexico and declared April 2015 as Parkinson's Awareness Month.

Councillor Pedroza presented a Proclamation to Marsha Hokkanen and declared April 14, 2015 as Equal Pay Day.

Councillor Pedroza presented a Proclamation to David and Janet Clements and declared May 2015 as Las Cruces Historic Legacy Month.

Councillor Pedroza presented a Proclamation to Jerry Paz and declared April 20, 2015 as Angela Narvaez Paz Day.

Councillor Pedroza presented a Proclamation to Oscar Andrade and declared April 26 thru May 2, 2015 as Pic Quick Stores 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?

Councillor Sorg said I will be recusing myself from Item 8.

Mayor Miyagishima said we will be tabling those items and I would ask that each of you abstain individually.

Councillor Small said I will be abstaining from Item 10.

III. PUBLIC PARTICIPATION

Susan Krueger, Member of the Public said as President of the Doña Ana County Historical Society, in 2014 the Society recognized those buildings in Mesilla Park that had historic structures. We also went ahead and recognized Janet and David Clements for their extraordinary effort in nominating those structures in Mesilla Park to both the State and National Register of Historic Places.

I also want to mention that if you adopt an animal from the Animal Shelter that needs a little help with behavior issues, the Humane Society has a program called Rough to Ready to help with these issues for free.

Dana Garcia , Member of the Public gave an overhead presentation regarding the need for a special needs equipment in parks for children with special needs.

Crystal Woodward, Member of the Public said I also have a child with special needs and it is very difficult not to be able to have the special needs equipment at parks for my child to play on.

Robert Garza, City Manager said we are moving forward with some playground equipment in Young Park.

Mark Johnston, Parks and Rec Director said we were hoping for a larger amount of funding from our legislators but we do have some funding available in our General Fund so we will be getting a special needs wheelchair accessible swing set. We are going to make a Disneyland in Unidad Park with a full accessible playground in the middle with branched out playgrounds that all children will have access to at all times. It is on our ICIP to start in 2016.

Fidel Aguirre, Member of the Public said my daughter is a special needs kid and it would benefit our kids to have this type of equipment in our parks.

Randy Harris, Member of the Public said I want to thank you for recognizing the Mountain View Market. Regarding our economy, we wouldn't let some company come into our city and drill wells to bottle our water and ship it elsewhere so we shouldn't let a company come into our local economy and drill into our economic aquifer.

Rich Ferrary, Member of the Public said I am in Gill Sorg's district and I have been involved with the opposition of the recall efforts. I have pulled the names of all the paid circulators from those petitions and there were ten of them in Mr. Sorg's recall. They range in age from 19 to 74 and only nine were registered voters which none of them have ever cast a single ballot in a municipal election. This shows the kind of people that were being hired by the folks who are doing this recall and it also tells me that these paid circulators were told things about this Council that I believe were incorrect.

Oscar Andrade, Member of the Public said I own Pic Quik stores and I was moved by the presentation regarding the needed special needs equipment at our parks so I would like to offer the first donation of $10,000 for this equipment.

Alice Cox, Member of the Public said regarding the rezoning on Valley Drive that is coming up, as a small business owner, I have compassion for the other local business owners because we are the local people who give back to the community. There is a lot of traffic on Valley Drive, including school buses and kids going to school, and that road is not able to handle more traffic from you allowing a Walmart or any other big out of town store on the corner of Valley Drive and Tashiro.

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 12 and 13 need to be moved to be heard after Item 7 on the agenda.

Councillor Small Moved to Approve the Agenda as Amended and Councillor Pedroza Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Agenda as Amended and it was Approved. 6-1 Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Levatino and Mayor Miyagishima voted Aye. Councillor Smith voted Nay.

V. CITY COUNCIL MINUTES

*(1) Regular City Council Meeting of March 16, 2015

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

*(2) Resolution No. 15-195: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction for Public Celebration Permit Applications From Amaro Winery and High Desert Brewing Company for a Combined Museums Event at the Branigan Cultural Center, the Museum of Art and the Museum of Nature and Science to be Held on Friday, May 15, 2015.

*(3) Resolution No. 15-196: A Resolution Authorizing Amaro Winery to Continue with the Permitting Process to Allow for the Sale and Consumption of Wine During a Combined Museums Event at the Branigan Cultural Center, the Museum of Art and the Museum of Nature and Science to be Held on Friday, May 15, 2015.

*(4) Resolution No. 15-197: A Resolution Authorizing High Desert Brewing Company to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer During a Combined Museums Event at the Branigan Cultural Center, the Museum of Art and the Museum of Nature and Science to be Held on Friday, May 15, 2015.

*(5) Resolution No. 15-198: 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 at Apodaca Park, 801 East Madrid, Las Cruces, New Mexico, During the 2015 Las Cruces Vaqueros Baseball Season.

*(6) Resolution No. 15-199: A Resolution Authorizing the City of Las Cruces, on Behalf of Its Senior Programs, to Accept Additional Incentive Funding in the Amount of $10,000.00, From the North Central New Mexico Economic Development District Non-Metro Area Agency on Aging, to Ratify the City Manager's Signature on the Contract Agreement; and to Amend the City's Adopted FY2015 Budget.

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

(7) BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 15-200; A PUBLIC HEARING MUST BE HELD:

Mayor Miyagishima said the Public Hearing for Resolution No. 15-200 is now open. Is there anyone who wishes to speak against this item?

No one spoke.

Mayor Miyagishima said the Public Hearing for Resolution No. 15-200 is now closed.

Resolution No. 15-200: A Resolution Approving the Issuance of a Restaurant Liquor License (Beer and Wine) to Mesilla Valley BBQ Company Located at 1340 East Lohman Avenue, Las Cruces, New Mexico.

Councillor Small Moved to Approve Resolution No. 15-200 and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-200 and it was Unanimously Approved. 7-0

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(12) Resolution No. 15-205: A Resolution Approving a Development Agreement (Agreement) Between the City of Las Cruces and Sierra Norte Land Holdings, LLC to Establish a Voluntary Assessment District for the Construction of Sonoma Ranch Boulevard from Sierra Ventana Avenue to Approximately One-Half Mile North of Arroyo Road; Arroyo Road from Red Hawk Golf Road to Sonoma Ranch Boulevard; Approximately One and One-Half Miles of Red Hawk Golf Road; Approximately Two-Thirds of a Mile of Peachtree Hills Road; Associated Utilities Including Sanitary Sewer Infrastructure; and a Regional Drainage System for Pre-Development Flows Only.

Councillor Small Moved to Approve Resolution No. 15-205 and Councillor Sorg Seconded the motion.

Loretta Reyes, Public Works Director gave an overhead presentation and said this is for the approval of a Voluntary Assessment District (VAD) for the Metro Verde area. The City was approached by Sierra Norte with the VAD proposal which would provide a funding mechanism to build infrastructure in that area. The assessment district is made up of approximately 1,500 acres so a cost per acre charge will be calculated and paid at such time the properties are sold, exchanged, developed, subdivided, or transferred and the City will make a good faith effort to obtain financing in the form of bonds. Sierra Norte will be responsible for 100% of the project cost and infrastructure will be constructed as individual projects. Sierra Norte is to provide plans and specification and the City is responsible for procurement and construction. There will be a lien placed on the property to guarantee the project costs which the City will be in the first position.

Mark Krawczyk, Treasurer continued the overhead presentation and said we will be pledging State Shared Gross Receipts Tax (SSGRT) revenue to support the issuance/rating on a subordinate basis to the City's other SSGRT debt. So in other words, something has to happen with what we've issued before, before this debt would be looked at as something the City would owe. So, if this agreement is approved, it will be at least 90 to 120 days to complete the due diligence process, pricing and issuance of the bonds.

Mike Johnson, Sierra Norte Representative gave an overhead presentation and said Phase One proposed improvements include the second mile of Sonoma Ranch from Peachtree Hills to Arroyo Road and we have 120 feet of right-of-way which is a standard arterial right-of-way and we have one lane going each direction with turn lanes, landscaped medians, bike lanes, walking trails on either side of the street, street lights and landscaping. So the right-of-way will essentially be a complete street from right-of-way line to right-of-way line as well as the fact that we've also designed the cross section to incorporate for in the future an additional lane in each direction, we will not have to relocate any of the infrastructure except simply remove the curb and gutter and add the additional lane with new curb and gutter.

Councillor Sorg asked will you have the same from Peachtree Hills to Engler?

Mike Johnson said it is the same complete street concept but since from Engler to Peachtree there is a two lane section, we are going to leave those two lanes in place and incorporate them into the design.

Councillor Sorg asked what are the plans for the State land?

John Moscato, Sierra Norte Development said our company has a long-term development lease with

the State Land Office and we have already been speaking with them about ways to begin the development of that property. It will be a step by step process and in all likelihood all 320 acres won't be developed at once but will be developed in phases. Whenever it comes time for the Land Office to go through it's formal process for selling the property, there will be a bidding process and there is no guarantee that we would be the ones developing it.

Councillor Sorg said I think this is well designed and well planned so I fully approve this VAD.

Councillor Small asked what rate would we get this debt?

Mark Krawczyk said I don't know that amount at this time. It will be about 90 to 120 days for the process and we are basically co-signing for the developer so that will be looked at as more of a risk.

Councillor Small asked is there a buffer amount built into this?

Mark Krawczyk said yes, I added a buffer just in case something comes up during the process.

Councillor Small asked does this lessen the amount of our available bonding?

Mark Krawczyk said it will not impact our ability to meet our needs for our bond cycle program but we will have to carry it on our balance sheet as a debt.

Councillor Small said this is located at the furthest north and furthest east of our city limits; correct?

Loretta Reyes, Public Works Director said within that area, that is correct.

Councillor Small said the Arroyo Master Plan was put on hold at the request of the State Land Office; correct?

Robert Garza, City Manager said yes, we did defer it and it is on our schedule for May 11th.

Councillor Small said this is a very positive design and it is innovative but it is also at the very edge of our city limits and it presents the potential for additional costs to the City. There are many different roads in the City that need upgrades and there are many different areas where infrastructure and infill development, although more difficult, can provide more cost effective services for residents because there would be less travel involved. So while this is a very positive and innovative approach, the downside of using these resources in this manner seems quite significant to me.

Councillor Pedroza said my concern is that the developer won't sell a significant amount of the lots or houses. I understand the City has a lien but we would then have a debt and possibly empty land so how is that a good idea?

Mark Krawczyk said I can't tell you if it is a good idea or not, I can only tell you what is in the

agreement which is that Sierra Norte will pay the debt service on the bonds as scheduled as the project goes forward. There is a paragraph in the agreement that states that if they miss one debt service payment then the whole debt comes due and if they fail to pay it in full then we become land holders as first lien holder on the property.

Councillor Pedroza said the economy hasn't been the most robust so that gives me pause to saying that we should get involved in developing a whole area when maybe we already have a glut of housing.

Mark Krawczyk said I didn't look at any projections and I would hate to speak out of turn as to what might or might not happen with our local housing economy.

Robert Garza said there are several protections built into this agreement which one of them is a lien on the property and another provision provides for the developer to make a lump sum payment up front to the City to have in reserve.

Mike Johnson said the lump sum one time deposit is $350,000. Sierra Norte is required to make annual principal payments in the amount of the bond and the properties are being assessed at a value of 1.5 times per acre which means that every time an acre of land is sold by Sierra Norte, they have to pay 1.5 times the assessed value per acre so the repayment of the debt will be accelerated by 50% more than previous ones.

Mayor Miyagishima said that calculates to about $5,200 per acre and these acres could probably sell for about $50,000 so that is a very minimal risk for the City.

Robert Garza said if you take the total amount of the project which is about $12 million and break it down by acre, there are about 1,500 acres so that's about $8,000 per acre. The 1.5 multiplier is an important aspect because instead of paying us $8,000 for every acre they develop, they're going to be paying us 1.5 times that amount which is $12,000 per acre.

Councillor Silva said my concern was how this would affect our bonding but they were able to work that out. I feel comfortable with this since there is an accelerated payment schedule and $350,000 in escrow is also a very good safety net.

Councillor Sorg said we have to be good stewards of the City's assets, of the people's taxes, which is why we are looking at this so closely and I think we have certainly minimized this risk.

Councillor Levatino said the real estate industry determines whether we are in a down or up market on a six months basis and every indication shows we are in a sellers market. That speaks well for what they will be doing out there with this project and that area is a very popular area.

Councillor Small said is there a time line on when the City gets their money back?

John Moscato said we are obligated to meet any debt service payment and any principal payments required under the bond issuance regardless of our pace of development. We are just coming out of the starting gate so an estimated time line on the low end would be about eight to ten years and on the high end, about twelve to fifteen years to be at the point where it'd be reasonable to project that the bonds could be retired.

Councillor Smith said I do think Councillor Small's concerns with the infrastructure are reasonable concerns and I think the bonding questions have been answered to my satisfaction but I think the infrastructure question is one that we should keep in mind each time we take up an issue like this. I am very comfortable with this but I do appreciate all the questions.

Renee Frank, Member of the Public said I have been a realtor in Las Cruces for the past eight years and I understand the challenges that we live with here in Las Cruces based on things like our lack of infrastructure, incomplete roads, streets that go from four lanes to two lanes and then back to four lanes, as well as incomplete sidewalks and areas for pedestrians and bicyclist. These conditions are embarrassing and can be detrimental to property values in terms of people making decisions to relocate in to Las Cruces. As a realtor, I see more people wanting to relocate here because we have a wonderful quality of life and a lot of things going for us. My understand is that the Metro Verde area in the planning process actually took into account the projections for growth in Las Cruces and the regional area and that Metro Verde is anticipated to accommodate approximately one quarter of the city's growth over the next 20 to 25 years. So that makes it a very important matter to have that development done in a complete way. I urge you to approve this VAD proposal.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-205 and it was Approved. 6-1 Councillor Silva, Councillor Pedroza, Councillor Sorg, Councillor Levatino, Councillor Smith and Mayor Miyagishima voted Aye. Councillor Small voted Nay

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(13) Council Bill No. 15-032; Ordinance No. 2751: An Ordinance Approving a Zone Change From A-2 (Rural Agricultural District From the 1981 Zoning Code) to C-3 (Commercial High Intensity) on a 7.31 ± Acre Portion of a Larger Tract Located at the Southwest Corner of Tashiro Drive and Valley Drive. Submitted by Galloway & Company, Inc. On Behalf of D & R, Inc., Property Owner (Z2883).

Councillor Small Moved to Approve Council Bill No. 15-032; Ordinance No. 2751 and Councillor Sorg Seconded the motion.

Robert Kyle, Building and Development Services Administrator gave an overhead presentation and said staff received an email this morning from individuals who wished to give their comments in opposition of this zone change request which I have handed to the clerk. This is for a zone change from A-2 to C-3 to facilitate the development of a new grocery store and fueling station. The property will be subdivided and this zone change will bring this property into compliance because the A-2 zoning no longer exists. The P&Z recommended approval of this proposed changed at their February 24, 2015 meeting and during that meeting a local business owner voiced his concerns with this proposed new development. The concerns included potential traffic issues to Tashiro and the surrounding area and the negative effects the proposed new development may bring to the existing nearby local businesses.

Matt Loevenguth, Galloway & Company gave an overhead presentation and said the proposed zone change is supported by the Development services staff and all reviewing departments in the City of Las Cruces. Any and all right-of-way and utility improvements and applicable studies and analysis will be required during the subdivision and development stages of the proposed development.

Dr. Joe Aday, Property Owner said we've owned this farm for several years and the last seven years we have thought about what we can do with it. We wanted this land to be used for a first class facility that served a need in this area. This would create jobs year-round which is something we weren't able to do with farming and it will increase gross receipt tax revenues.

Michelle Henry, Land Use Attorney continued the overhead presentation and said based upon review of the proposal by staff and other relevant agencies, the proposed zone change is justified based upon that there are no known adverse offsite impacts or potential risks to the public's safety, health, and welfare; the proposal is consistent with the policies of the Comprehensive Plan, the Transportation Plan and the intent of the 2001 Zoning Code; and the proposed C-3 zoning district is harmonious with and not out of character with the uses and existing zoning districts of the surrounding area. We want to have your support with this zone change and without this zone change, this property really has only one use which is agricultural and that use is not really compatible with the residential and commercial areas that are right next to it.

Councillor Sorg asked will they be able to sell alcohol there?

Robert Kyle said the selling of alcohol would be allowed with this zoning but they will have to go through the liquor license process.

Councillor Sorg asked will there be a traffic study done?

Robert Kyle said that process would occur during the subdividing process or if they don't subdivide then it would be at the building permit stage. We currently do have a subdivision application under review for this property and a traffic impact analysis has been submitted along with it.

Councillor Sorg said I would like you to state that this zone change meets all the requirements of City Code Section 38-2, 36-1; the Comprehensive Plan and the One Valley One Vision 2040 Plan.

Robert Kyle said staff and the Planning and Zoning Commission recommended approval of this zone change and those are the criteria that are looked out for approval. I cannot say that is complies with every single one of those documents but it is supported by those documents to the point that staff and the Planning and Zoning Commission felt comfortable recommending approval of it.

Councillor Smith said since A-2 is no longer a viable zone, do we have any zoning that allows agriculture within the city limits?

Robert Kyle said yes, there are some zoning districts that would facilitate agriculture use.

Councillor Smith said people have been coming to this valley for centuries for it's agricultural capabilities and I look at this as one of those properties where there has been farming and I have a hard time taking more of that type of land and turning it in to commercial.

Councillor Small said what are the drainage requirements and what happens to that drainage if this land is built out?

Robert Kyle said they have to maintain their drainage onsite.

Robert Garza, City Manager said the property owner had previously entered into an agreement pertaining to Valley Drive, Tashiro Road, and drainage.

Councillor Small asked would there be additional improvements made to the Tashiro/Valley intersection?

Robert Kyle said the Traffic Impact Analysis has not been approved at this time but I think they might be looking at just modifying the islands to accommodate the turn splits.

Councillor Small said Picacho Middle School is just west of this property and Mayfield High School is just north of it so this area is heavily used by the younger members of our community. There aren't any bike lanes and this street is very dangerous so it seems to me that a complete street would be appropriate for this area.

Robert Kyle said they would have to comply with the City's Design Standards which includes sidewalks, curb, gutters, pavement and potentially bike paths.

Councillor Small said with this being a grocery store and fuel station, there will be large delivery trucks so we might want to include a route for these trucks to take on to the property.

Councillor Levatino asked isn't this the area that Mr. Bannister wanted to build an athletic area?

Robert Garza said yes, this is the same property but I don't believe he owns the property, it belongs to Mr. Aday. He did say that he wasn't going to use the seven acre corner property.

Councillor Levatino said my concern is that we are looking at more kids, more activity, more traffic, and perhaps more danger. We were all very supportive of what he wanted to do there and I'm concerned that especially on the weekends, that area is jammed with kids and having a liquor store, grocery store, and gas station go in that area really concerns me. It looks like a lot of that area is zoned medium intensity; correct?

Robert Kyle said the red areas on the map are C-2 commercial medium intensity but in the 2001 Zoning Code, anything above one acre is a C-3 designated property.

Councillor Pedroza said I realize the Traffic Impact Study hasn't been completed but traffic issues are already being brought to our attention. That would have to do with public health and safety which is one of the things we have to look at, if it would have any negative impact on public health and safety. Maybe you should make the Traffic Impact Study come first regardless of where it comes in the process before you ask us to make a decision. I am very supportive of local agriculture and more local schools are teaching gardening so I think it would be positive to try to designate some of that for the community. There could also be issues with the gas station and fuel tanks having a negative effect on the public health and safety as well.

Councillor Small said there is a business that is adjacent to this property that does sell liquor and gas; correct?

Robert Kyle said that is correct.

Councillor Silva said it doesn't make sense to me that because of the size of this property it has to be zoned C-3 instead of being able to be zoned C-1 or C-2. So the way that code is written, it limits the land owners options and opportunities. I have always felt that the TIAs should be done in the very beginning because it does impact the project, especially one this size. I think there is enough here with the safety aspect only, that I don't feel comfortable moving forward with it.

Robert Kyle said there is a Traffic Impact Analysis currently submitted to the City as part of the subdivision application process so it is currently being reviewed by the State Highway Department and our own staff. As part of that review, the applicant would not be opposed to postponing the zoning change request until the TIA was reviewed.

Lucas Herndon, Member of the Public submitted a handout and said I am the President of the Las Cruces Green Chamber of Commerce and I have noted the number of concerns I have in writing. I went to Picacho Middle School and Mayfield High School and everything that has been said about the traffic in that area is 100% correct from 20 years ago. The part of the application that I would like

to point out the most is toward the end of the application it addresses traffic concerns and shows full access points at both Wilson and Medina Road and I'm concerned with that because I don't believe either of these roads are at collector status which is stated in the Code that they need to be for access points.

Carrie Hamblen, Member of the Public said I am the Executive Director of the Las Cruces Green Chamber of Commerce and our mission is to support our local businesses and encourage the development of sustainable communities. Local businesses are the backbone of our community and the owners and employees are invested in what happens here. The idea of a grocery store, drive up pharmacy and I believe a 12 bay gas station at this location causes great concern and although it hasn't been clearly identified as a Walmart, I question the transparency of the agency seeking this zone change. I encourage you to use the resources you have as public officials to continue to advocate for our locally owned businesses and use what is within your capacity as councillors to protect our local businesses and move our community toward economic equity.

Dana Garcia, Member of the Public said I live in this district and I have lived in this community all my life. It saddened my spirit when I heard about this proposal because Save Mart has been a part of Las Cruces for years and this would put their future in jeopardy.

Socorro Salinas, Member of the Public said I have worked at Save Mart for 15 years and they have been very good to me and my family. They also hire high school students 16 years old and older and they work with their schedules so they can continue to go to school. I am very concerned that having another Walmart is not the kind of economic development our neighborhoods and small businesses need because they are the largest company with the most employee complaints so I ask that you consider voting against this zone change.

Heather Silva, Member of the Public said I have lived here for 22 years and there have been a lot of changes over the years. I believe we should support our local businesses and whatever large corporation that would be at that property, it would be very damaging.

Jerry Silva, Member of the Public said I am the co-owner of Save Mart and I am here to ask all of you to reconsider the zone change and either vote no or table it. I believe this would be a public hazard and it could possibly cause the closing down of some of our local businesses.

Louis Serna, Member of the Public said I am an employee of Save Mart and I am against having a Walmart at this location because it could possibly jeopardize our jobs and our livelihood. So I ask that you not allow this zone change.

John Townsend, Member of the Public said I ask that you deny this request for public safety. I live in the area of Alameda and Hoagland and with the construction work on Main, that traffic has be rerouted through this area and has caused a lot of traffic build-up. Hoagland Street isn't adequate enough to hold a lot of traffic and it isn't even wide enough for school buses or big trucks.

Field of Dreams for drainage. I do have the possibility of draining the seven acres back into that so there isn't a drainage problem. Farming is difficult there and there aren't any farmers that want to do it because it is hard for them with the costs of fuel, fertilizer, and all the other needed products.

Michelle Henry said we have taken notes on some of the issues that were raised today and we would like to ask that you table this to give us time to work on them.

Councillor Small said we recently held a meeting at the Benavidez Center and there were about 30 folks that attended it. We discussed this proposal and it was split about half and half; half for it and half against it. Tabling this is a viable option but I would like to propose some conditions on this that would help address some of the issues in this area, like traffic and drainage.

Councillor Sorg asked what can happen if this Council votes this down?

Robert Kyle said the issue could go away or it could go to District Court.

Rusty Babington, City Attorney said should the Council decide that the zoning should not be changed then you would be required to submit your findings expressing your reasons on why you're turning down the zoning. Those are prepared and then submitted and finalized and then the applicant would decide whether or not to bring a civil procedure to District Court. The District Court would look at it to see whether or not he believes we have provided sufficient analysis or rational as to why the zoning should not be changed; looking at your findings of fact as well as the Development Code that was adopted by the City. The judge could send it back to City Council for another look and basically saying that he doesn't think you followed your Development Code. I would suspect that if he disagreed with Council's findings, assuming we turned it down, he'd probably look at it and send it back to Council to take action consistent with his opinion.

Councillor Sorg asked can the judge award damages to the applicant?

Rusty Babington said there is always a possibility of that and I would be happy to explain that in private.

Robert Kyle said if it is denied, they can wait one year and then come back with the same request or modify it and come back in six months.

Councillor Sorg said I'm aware of almost all of the issues that were mentioned here today and I don't like monopolies, I like choices and diversity. I think monopolies have to be discouraged somehow but we don't have that choice here today. I'm inclined to go with tabling this and trying to figure out some other way of doing this and maybe the land owner might consider some other uses for this land.

Councillor Levatino said this has been the most difficult issue that I've faced since I've been on Council. I'm a strong advocate of the free market and I believe in our capitalist model and in competition but there is a fine line between competition and monopoly. I don't know where that line

is but my sense is that we are fastly approaching it with this issue. I have received a lot of correspondence on this issue and about 98% of it was opposed to this zone change. My role is to represent my constituents first and then the City and in the end I support locally owned businesses and their owners who have worked hard and sacrificed their time and their treasures.

Councillor Pedroza said I also found this to be a difficult decision and I also received tons of emails which most were in opposition of this issue. I had to consider whether or not it would put the City in jeopardy if we were to deny the zoning change because if we simply denied for an arbitrary reason then we could face a lawsuit and possible have to pay a fine so I could not put the City in that risk. But after listening to everyone here today, I think there are some very valid and sound reasons for denying this zone change. I may be in favor of tabling this item just in order to refine and make solid the findings which I would like to base this decision but if the rest of the group is not in favor of tabling it then I would just vote against it.

Councillor Silva said I understand where Mr. Girle is coming from and I know there is a hotel being proposed in this area and it is being funded by public dollars and I'm not a fan of that at all. I think we need to remove our resentment and anger towards staff because they are just doing their job and this City doesn't have the best reputation for being pro-business. I also feel the pain of the small business owners that spoke today because I was raised in a family business and we found a way to survive but I have to remove my emotions from this issue. As I look at the decision criteria, I don't agree with a lot of the criteria that has been put before us. I don't feel I need to table this because I feel comfortable with where I stand on it.

Councillor Smith said I remain firm in my believe that we have to preserve the opportunities to use our arable land and that has to be given some strong thought so I remain opposed to changing the zoning for this area.

Councillor Small said this might be a really good opportunity to support additional planning to focus on what kind of investment and how development could proceed in harmony. Is there a number we could have on an estimate for the costs of the Tashiro Road improvements?

Robert Garza said don't take this to the bank but in using Bruins Lane as a comparable, this would be somewhere around five to six hundred thousand dollars range.

Councillor Small said that would be a complete street kind of approach; correct?

Robert Garza said yes, that would be reasonable.

Councillor Small Moved to Amend Council Bill No. 15-032; Ordinance No. 2751 to attach a condition that the non-Las Cruces Schools section of Tashiro Drive be upgraded to a complete street including bike lanes, curb, gutter and sidewalk and the motion died due to a lack of a Second.

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(11) Resolution No. 15-204: A Resolution Approving the Parks and Recreation Department 2015/2016 Fees and Charges/Facility Use Policy and Repealing Resolution 14-107.

Councillor Small Moved to Approve Resolution No. 15-204 and Councillor Sorg Seconded the motion.

Mark Johnston, Parks and Rec Director gave an overhead presentation and said this is a yearly process that we go through for parks and recreation fees and policies. We have expanded scholarship offerings with a generous donation from an anonymous donor and we have expanded rental opportunities at the Aquatic Center with the creation of the outdoor patio. Some of the changes include us removing the infant fee at the Aquatic Center and we are reducing the cost at the outdoor pools.

Councillor Small asked were there any feelings of reserve, opposition from the Parks and Rec Board or established users?

Mark Johnston said the feedback we get from the population is what we use to generate our policies and fees. There are very minimal changes, all good stuff that was recommended by the general public.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-204 and it was Unanimously Approved. 7-0

VIII. BOARD APPOINTMENTS

Mayor Miyagishima appointed Shannon Vallez Duffy (Lodging Position) to the Convention and Visitor Bureau Advisory Board.

Councillor Smith Moved to Approve Mayor Miyagishima's board appointments of Shannon Vallez Duffy (Lodging Position) to the Convention and Visitor Bureau Advisory Board and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board appointments Shannon Vallez Duffy (Lodging Position) to the Convention and Visitor Bureau Advisory Board and it was Unanimously Approved. 7-0

Mayor Miyagishima reappointed Felix Vega (Eastside Center Representative) and Kent E. Palmer (Sage Café Center Representative) to the Senior Programs Advisory Board.

Councillor Small Moved to Approve Mayor Miyagishima's board reappointments of Felix Vega (Eastside Center Representative) and Kent E. Palmer (Sage Café Center Representative) to the Senior Programs Advisory Board and Councillor Pedroza Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board reappointments Felix Vega (Eastside Center Representative) and Kent E. Palmer (Sage Café Center Representative) to the Senior Programs Advisory Board and it was Unanimously Approved. 7-0

IX. 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).***

(14) Council Bill No. 15-033; Ordinance No. 2752: An Ordinance in Accord with the City of Las Cruces Local Economic Development Plan, Authorizing the City of Las Cruces to Act as Fiscal Agent for a Local Economic Development Act Project Known as the Certo Plast North America Project.

Mayor Miyagishima and Council agreed to bring this item back.

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(15) Council Bill No. 15-034; Ordinance No. 2753: An Ordinance Approving a Zone Change from R-3 (Multi-Dwelling Medium Density) to C-2 (Commercial Medium Intensity) on Two Parcels Totaling 0.52± Acres Located at 870 E Madrid Ave. Submitted by Israel Brown on Behalf of Javier and Silvia Terrazas, Property Owners (Z2884).

Mayor Miyagishima and Council agreed to bring this item back.

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(16) Council Bill No. 15-035; Ordinance No. 2754: An Ordinance Approving a Zone Change From C-2 (Commercial Medium Intensity) to R-1AM (Single-Family Medium Density Mobile) on 0.93± Acres Located at 5365 Morningside Road. Submitted by Christina Valenzuela on Behalf of Ramiro and Yolanda Valenzuela, Property Owners (Z2885).1

Mayor Miyagishima and Council agreed to bring this item back.

X. CITY COUNCIL MEMBER BOARD REPORTS

There were no City Council Member board reports.

XI. GENERAL DISCUSSION

b.) City Council

Councillor Silva said I recently attended the Main Street Conference in Atlanta and I would like to give a report on it at our next meeting.

I had a chance to thank Oscar Andrade for his generous donation for the special needs playground equipment for the parks.

Regarding moving around items on the agenda, I don't know if that is in the best interest of the public because we have already posted the agenda for that meeting and it shows the items in order. I received a text for some stating that they thought the Walmart property discussion was going to happen later on in the day so they weren't here when it was moved up and discussed earlier. So I don't know if doing that is in the best interest of the public.

I attended the services for Clarence Fielder and he was truly an icon in this city. I would like for us to honor him with recognition at one of our meetings.

There was an application submitted for the Mesquite Review Board; Esther, have you received it yet?

Esther Martinez-Carrillo, City Clerk said I don't recall, do you have their name?

Councillor Silva said I can't remember his name right now but I will have him resubmit it to you.

Councillor Pedroza said there was a nice article in the newspaper regarding the growing number of schools in our community that have gardens.

Last week I went to Anthony for the Blessing of the Fields and it was a really good event.

On April 21st from 12:00 to 1:00, there is a job link sponsored by Good Will at their new store located at 1240 Valley Drive.

Tomorrow from 8:30 to 11:30 at 150 East Idaho, the Partners for Home Ownership are going to have classes on how to prepare for your first home.

Do we know when the question of public financing for elections is schedule for a work session?

Robert Garza, City Manager said I have met with Mr. Freske and he will be joining us at our June 22nd work session.

Councillor Small said I want to thank Jamey and Tamika with their help with the district meetings which we received some really good input and we have seen a spike in the Valley Drive website.

Mr. Garza has spoken about having outside counsel for the Rate Case with El Paso Electric and I wanted to see if there are any updates on that issue.

Robert Garza, City Manager said I would be glad to give you and Council a briefing on that in private.

Councillor Small said we had a presentation on renewable energy and the investments that could save the City around $60 million over the course of 30 years; what is the status of that and is that part of this year's budget?

Robert Garza said there were a lot of good things brought up in that work session and some of them will not require an initial investment on our part but those that do will certainly be something that we will need to talk about at our May 11th meeting.

Councillor Small said that presentation also mentioned a LEAP program; I know there were some concerns; however, given that NMSU has participated in it very successfully and there are other communities that are also participating in it, that would be a nice fit for us. So, is there any update on that?

Robert Garza said I have a conference call scheduled tomorrow with the Director of the program but I do have some concern with the lack of local contracts and I know they use contractors from Albuquerque and up north. I will be able to give you a more complete update after my conference call.

Councillor Pedroza said I forgot to mention that last Thursday, at Young Park, I attended the Water Festival for elementary students and it was fantastic.

Councillor Sorg said we have to continue to support our local businesses and whatever our city and economic development can do, I want to explore it in the future. I also call upon all the Chambers to help support local businesses as well.

I would like to start the process for a new ordinance that places a lien on property adjacent to roads when the City pays and builds the road so that way the road could be paid for when the lands are sold and it wouldn't cost the taxpayers. So I was wondering if staff could start drafting such as a ordinance assuming the rest of Council agrees.

Mayor Miyagishima said I think we should have a work session on that topic.

Robert Garza, City Manager said putting a lien on a property is essentially taking the property and New Mexico law provides a solution for that which is called a Special Assessment District. We can't put a lien because there already is a method provided for by statute. We will evaluate it for you and see if there are any other models available within the state.

Councillor Sorg said in August of last year we passed a resolution in support of interest fee caps for small loan companies in New Mexico. There has been some advertisements on TV regarding loans from $100 to $1,000 at 28% interest from GECU and also the New Mexico Credit Unions have launched a similar affordable loan products. So I would like the City to explore this with our credit unions in town to see if they would be interest in having a program like this and we could use some of our cash on hand to deposit in their bank as an incentive for them.

Mayor Miyagishima said you are asking that we deposit some of our cash on hand so what would they be offering the City in return? The City does have a some small amount of cash on hand but it is working 24/7, we're earning interest on everything we've got so would they give a higher return to the City?

Councillor Sorg said part of the return to the City would be them offering these types of loans to the public at lower interest rates. I'm just asking that we explore it.

Councillor Levatino said last week I was at the State Aviation Conference in Ruidoso and it was a good meeting.

Councillor Smith said our travel to Juarez a week ago was very emotional for some of us and it was a great trip.

A week ago Monday was the 100th celebration of 100 houses for Habitat for Humanity and I was pleased to represent the City at that celebration.

On Friday night, I went to the Rio Grande Theater for the Rotary Club Talent Show and I just want to say that we have some tremendously talented young people in our community.

On Saturday night, Maria Luisa Tomes performed in El Paso which was basically supported by the City as well as by the Consulate General of Mexico and I think we have benefitted from a number of things that they have brought here to Las Cruces so I hope we can return the favor by encouraging or somehow supporting our symphony to perform in Juarez or something else along those lines.

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a.) Mayor

Mayor Miyagishima said I would like to thank the Consulate General of Mexico for bringing those programs to us and we don't pay anything for it. This has been a great partnership and hopefully it will continue.

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c.) City Manager

Robert Garza, City Manager said we have a work session on June 22nd regarding economic development and how we are going to invest our funds and I also want to remind you that you all agreed to create a economic development committee. Each of you will appoint a member to that committee and the Mayor will appoint three members of Council to that committee. So, if you can get those nominations to the Janice so she can put them on the cue sheet for our next meeting to give you the opportunity to have a conversation on them in order to make sure the committee is diverse and complete.

Staff and I have followed up with the Paz family regarding La Entrada and they are adamant that they don't want it placed at Klein Park. We have been working with them and they've agreed to have it located in the Downtown area and potentially in Johnson Park. I will be recommending a work session to discuss this issue.

Councillor Smith Moved to Adjourn and Councillor Small Seconded the motion.

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

Council said "Aye."

Meeting Adjourned at 6:56 p.m.

Mayor

Interim City Clerk

(SEAL)