



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

**Regular Meeting**

**October 5, 2009  
1:00 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 Dolores C. Archuleta, District 3  
Councillor Nathan Small, District 4  
Councillor Gil Jones, District 5  
Councillor Sharon Thomas, District 6

**STAFF:**

Terrence Moore, City Manager  
Fermin Rubio, 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 Archuleta led the Pledge of Allegiance.

Janet Mazdra sang the National Anthem.

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and Jordan Simons presented the Pet of the Week.

Councillor Archuleta presented a Certificate of Recognition for the family members of Pvt. Julian Melendrez, WWII Veteran who was killed in Normandy.

Councillor Archuleta presented a Proclamation and declared October 2009 as Dyslexia Awareness Month.

Councillor Archuleta presented a Proclamation to Travis Brown, LCFD and declared October 4<sup>th</sup> thru October 10, 2009 as Fire Prevention Week.

Councillor Archuleta presented a Proclamation to Katherine Staley and declared October 7, 2009 as Walk and Roll to School Day.

Councillor Archuleta presented a Proclamation to Richard Weaver and Betty Moorhead and declared November 1, 2009 as Friends of the Community Candy Drop Day.

Michael Dellheim, NM Location Manager gave a presentation on the movie Due Date which is being filmed in Las Cruces.

Andy Hume gave a presentation regarding the update from the Bicycle Friendly Community Task Force.

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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?

Councillor Small said I will be recusing myself from Resolution 10-107 due to my other employment.

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**III. PUBLIC PARTICIPATION**

Russ Warner, Member of the Public said I would like to commend both sides for reaching an agreement regarding the Philippou issue.

Trina Witter, Member of the Public said on behalf of the Mesilla Valley Bicycle Coalition, I would like to thank the City for their support in making this area more bicycle friendly.

Violet Kauffman, Member of the Public said I want to thank the movie company for the hard surface on Settlers Pass.

Tammy Shur, Member of the Public said I am with the Bicycle Coalition of New Mexico and I would like to thank you for your foresight in directing Andy to do the Bike Friendly Task Force.

James Graham, Builder said I have been here for about 40 years and I am in favor of the Wilderness Bill to help preserve our Organ Mountains.

Bob Butler, Member of the Public said I have several questions; did this Council vote and agree on a five year contract with the El Paso Electric Company in the past month?

Mayor Miyagishima said no.

Bob Butler asked where are we at as far as the company is concerned?

Mayor Miyagishima said right now, they are evaluating the possible partnership with El Paso Electric on providing some type of solar equipment.

Bob Butler asked what is the status of the Citizens Police Review Board?

Mayor Miyagishima said we had a work session a few weeks ago regarding that issue and we are probably going to be moving in the direction of a type of Police Auditor. We will be having another meeting regarding that issue probably next month.

Bob Butler said I would like to ask each one of our Councillors, what is their opinion on electro shock treatment in hospitals? I would ask that they submit a response letter and give it to Margaret Hensley and then I'll pick them up in a few days.

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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 Archuleta Moved to approve the Agenda and Councillor Connor 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. CITY COUNCIL MINUTES**

\*(1) Regular Meeting of August 24, 2009

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**VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA**

- \* (2) Resolution No. 10-103: A Resolution Authorizing the City of Las Cruces Fire Department to Accept the New Mexico Department of Health Emergency Medical Services Fund Act Local System Improvement Project Grant of \$15,000 Requiring a Local Match of \$6,040 and to Adjust the FY 2010 Budget.
- \* (3) Resolution No. 10-104: A Resolution Approving Home Investment Partnerships Program (HOME) Grant Agreement Between Mesilla Valley Habitat for Humanity and the City of Las Cruces for the Acquisition of Property for the Development and Construction of an Owner-Occupied, Single-Family Affordable Housing Dwelling Unit.
- \* (4) Resolution No. 10-105: A Resolution Approving a Home Investment Partnerships Program (HOME) Loan Agreement Between Tierra Del Sol Housing Corporation and the City of Las Cruces for the Acquisition of Property for the Development and Construction of Owner-Occupied, Single-Family Affordable Housing.
- \* (5) Resolution No. 10-106: A Resolution Authorizing an Assignment of a Land Lease for Parcel 38 at the Las Cruces International Airport From Kenneth R. Kentosh to Susan E. Kentosh and Amending the Lease Term From 20 to 30 Years.

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## VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

- (6) Resolution No. 10-107: A Resolution to Support the Organ Mountains - Desert Peaks Wilderness Act and to Encourage Support From Members of the United States Congress and the New Mexico Congressional Delegation.

Councillor Connor Moved to Adopt Resolution No. 10-107 and Councillor Silva Seconded the motion.

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Dara Parker, from Senator Bingaman's office gave a presentation and said this was submitted a few weeks ago and it is really going to help protect our quality of life. The hearing for this bill will be this Thursday but I will keep you up to date on its status.

Mayor Miyagishima said I am very impressed with the changes that were put forth on this issue.

Councillor Archuleta asked will Tortugas still be able to use A Mountain for their pilgrimage?

Dara Parker said yes.

Councillor Thomas read a supporting email and said I have received a lot of emails in support of this bill.

Jerry Schickedanz, Member of the Public said I have been a resident here since 1968 and I am opposed to this bill as it is written. I have a petition with about 700 signatures of people that are also opposed to this bill. We aren't opposed to protecting wild lands in Dona Ana County but we think there are other ways to do it. When this becomes wilderness, the Border Patrol won't have access to these areas and the roads that hunters currently use won't be open to them anymore.

Doug Lee Williams, Member of the Public said I am a public lands rancher and I was never allowed to present my case at the stakeholders meeting that was held three years ago. It has become much more limiting for me to manage my ranch. I don't have access to a lot of the roads in my area; now I only have access to two dirt tanks on my ranch. I can only reach my other dirt tanks by horseback and all my tanks have to be maintained every two to three days.

Mayor Miyagishima said you should contact the Representative's or the Senator's office and ask to have them address the BLM regarding your access to these areas.

Dr. Earl Nelson (?), Member of the Public said I am in favor of this item and the Dona Ana County has already approved it.

Kathleen Strayley, Member of the Public said I've lived in Las Cruces since 1996 and once the wilderness areas are gone, they are gone forever.

Joel Huffman, Member of the Public said I have been hiking around the Organ Mountains all my life and I support this resolution.

Jeff Steinborn, Representative said this Wilderness Act protects Ranchers and the wilderness areas.

Steve Ludington, Member of the Public said I grew up hunting and backpacking in the Organ Mountains.

Sandford (?), Member of the Public said I am the chairman for the Southwest Consolidated Sportsman and we unanimously support this proposal.

David Griffin, Member of the Public said I am the President of the Audubon Society and we fully support the Organ Mountain Wilderness Act.

Rob Richardson, Senior Vice President of Bohannon-Huston said we need to focus on the flood control issues with the BLM land. They don't want to get into the business of owning and operating facilities so they won't grant right of ways for a flood control structure.

Councillor Jones said they might be concerned with the liability issue.

Councillor Thomas said this could be the opportunity to put some kind of language in this to address that issue.

Dara Parker said we have had discussions with a number of agencies, including the Dona Ana County Flood Manager, EBID and the BLM regarding this issue and we are currently working on it.

Angel Montoya, Member of the Public said I urge all of you to support this issue.

Virginia Romero, Member of the Public said it is our responsibility to protect the land.

Sylvia Byrnes, Member of the Public said we bought our property because of the beautiful views and this land is a gift to us and we need to take care of it.

Bonnie Burn, Member of the Public said I am the President of the League of Women Voters and I urge you to support this legislation.

Amanda Cruz, Member of the Public said I am with the Hispano Chamber of Commerce and we need to protect our lands.

John Moen, Member of the Public said our biggest concern is the area west of the Potrillo Mountains and we proposed having a loop road in this area but they weren't interested in allowing it. We have been compromising with them for roads in this roadless area and I believe we have hacked out a really good proposal. Most sportsmen support this as it is now.

Councillor Connor asked when this is enacted; will there be wilderness study areas?

Dara Parker said not in Dona Ana County but there will be areas for others parts of New Mexico.

Councillor Connor said this will be heard on Thursday, what kind of time frame will there be for this item?

Dara Parker said the hearing is moving along quickly but a vote is unlike to come up for about another year.

Councillor Jones said there has been a tremendous amount of work on this project and Councillor Connor should be given some credit on this because I was with her when we visited Washington in 2006 and she handled that meeting very well. She has also continued to work on this item and kept it moving forward.

I do have some concerns with the flooding control issues on the East Mesa and I would like to add an amendment to this item.

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Councillor Jones Moved to Amend Resolution No. 10-107 to include under Item 2 on page 6 that prior to final adoption, we urge that our congressional delegation considers the need for limited land use accommodations where appropriate for the purpose of storm control projects for the protection of communities and Councillor Connor Seconded the motion.

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Councillor Jones said this motion is broad and not limiting because my goal and my job is to protect Las Cruces regarding the storm control issues on the East Mesa.

Mayor Miyagishima said I am concerned with putting that in this resolution and I would suggest that we bring back a sole resolution that we will send to the BLM to address the flood control issues.

Councillor Jones said by that time, the BLM's hands will be tied and I think we need to send the message that flood control issues are important to us.

Mayor Miyagishima said I still think we need to address those issues with the BLM.

Dara Parker said we are continuing our dialog with the BLM and we are still considering all these issues.

Jeff Steinborn said I think this amendment isn't necessary and the language isn't appropriate for this resolution.

Jim Harbison, Member of the Public said this resolution is a representation of our endorsement for the proposed legislation and I think this Council should include other things that they want to be considered with this resolution.

Councillor Thomas said we have had conversations with the BLM regarding the flood control issues.

Robert Garza, Assistant City Manager said the City has done numerous projects over the years on BLM property and in some of cases, they just deed the property to the City but those areas haven't been in the wilderness areas. The Army Corp of Engineers could become the owners of a flood control facility on federal property within the BLM so a partnership with the Army Corp would be a key in getting there.

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Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 10-107 to include under Item 2 on page 6 that prior to final adoption, we urge that our congressional delegation

considers the need for limited land use accommodations where appropriate for the purpose of storm control projects for the protection of communities and it FAILED. 3-3-1 Councillor Silva, Councillor Connor and Councillor Jones voted Aye. Councillor Thomas, Councillor Archuleta and Mayor Miyagishima voted Nay. Councillor Small Abstained.

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Mayor Miyagishima said I just don't see any need to include any additional language to this resolution.

Councillor Thomas said we could just add direction to staff to move forward with the BLM.

Harry (Pete) Connelly, Deputy City Attorney said the amendment failed so the only thing you have before you is the resolution.

Councillor Archuleta said I was part of a meeting with the Zia Pueblo Indians in May and they gave us a tour of a portion of the Jemez Mountains. The guide said the white man should be concerned with protecting thousands of acres for our future. I was born and raised here and I want the Organ Mountains to remain just as they are.

Councillor Silva said I think everyone wants to preserve our Organ Mountains.

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Councillor Silva Moved to Call for the Question and Councillor Jones Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Call for the Question and it was APPROVED. 6-0-1 Councillor Small Abstained.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-107 and it was APPROVED. 6-0-1 Councillor Small Abstained.

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- (7) Resolution No. 10-108: A Resolution Designating a Voting Delegate and an Alternate to Attend the Annual Business Meeting of the National League of Cities on Saturday, November 14, 2009, in San Antonio, TX.

Councillor Archuleta Moved to Adopt Resolution No. 10-108 and Councillor Thomas Seconded the motion.

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Esther Martinez, City Clerk said we need to appoint someone as the voting delegate and an alternate for the Annual Business Meeting of the National League of Cities.

Councillor Connor said I have been the voting delegate for the past two years and I will be attending this meeting so I would like to be appointed again.

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Councillor Archuleta Moved to Amend Resolution No. 10-108 to select Councillor Connor as the Delegated Voter and Councillor Silva as the Alternate and Councillor Jones Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 10-108 to select Councillor Connor as the Delegated Voter and Councillor Silva as the Alternate and it was Unanimously APPROVED. 7-0

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-108 as Amended and it was Unanimously APPROVED. 7-0.

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- (8) Council Bill No. 10-008; Ordinance No. 2537: An Ordinance Repealing Las Cruces Municipal Code, Sections 2-426, 2-427 and 2-428 Cable TV Compliance Commission In Its Entirety.

Councillor Connor Moved to Adopt Council Bill No. 10-008; Ordinance No. 2537 and Councillor Jones Seconded the motion.

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Udell Vigil, PIO Director gave a verbal presentation and said this ordinance would do away with the Cable TV Compliance Commission. The Commission doesn't serve any purpose any more and there aren't any members appointed to serve on it. The PIO office handles all cable related matters with Comcast.

Mayor Miyagishima said the PIO Office has a great staff.

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Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-008; Ordinance No. 2537 and it was Unanimously APPROVED. 7-0.

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- (9) Council Bill No. 10-009; Ordinance No. 2538: An Ordinance Authorizing a Lease Agreement Between the City of Las Cruces and Enxco Development Corporation, for the Thirty Year Lease of Approximately 86 Acres of Municipally Owned Land in the West Mesa Industrial Park for the Purpose of Developing a Solar Energy Project.

Councillor Jones Moved to Adopt Council Bill No. 10-009; Ordinance No. 2538 and Councillor Thomas Seconded the motion.

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David Weir, Community Development Director gave a presentation and said this is for a 30 year lease of 86 acres in the West Mesa Industrial Park to Enxco Development Corporation which is a green energy company.

Rob Hursh, Enxco gave a verbal presentation and said we are a renewable energy company in both wind and solar energy. We are investing in New Mexico and working with El Paso Electric as well as other companies to bring this technology forward; we do have a lot of experience in this field.

Councillor Connor said my husband works with El Paso Electric but I don't see a conflict with this because they are speaking with other companies as well.

The minutes from the West Mesa Strategic Planning Committee weren't included in our packet and this presentation was given to them. In the future, we need to have those minutes included in our packets.

David Weir said that was an oversight and we will make sure to include those in our future packets.

Mayor Miyagishima asked if the City were to enter into an agreement in the future with your company for the generation of power in the West Mesa area, would it be at a reduced cost?

Rob Hursh said the grid connected project would be serving El Paso Electric's load.

Mayor Miyagishima asked could the City enter into a partnership to reuse some of our additional land?

Rob Hursh said there will be some additional opportunities for additional plants.

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Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-009; Ordinance No. 2538 and it was Unanimously APPROVED. 7-0.

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### **VIII. BOARD APPOINTMENTS**

None given.

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

1. **Strategic Plan** - *(Implementation documents being prepared, finalizing plan for council review and consideration.)*
2. **Las Cruces Convention Center** - *(Status report provided monthly on second, Regular City Council Meeting)*
3. **Downtown** - *(The project design is ongoing with Bohannon-Huston, Inc. The city has completed the final details for the proposed cul de sac on Lucero Ave. Bohannon-Huston is scheduled to submit a 95% complete plan set for the final review on September 25, 2009 for the northern end of the project. There is a Public Input meeting for the northern portion of the project scheduled for Tuesday, October 6, 2009 at 6:00pm in City Council Chambers. The anticipated completion of the design for the north end portion is October 30, 2009.)*
4. **Impact Fees** - *(The project is on-going. Staff is currently reviewing the latest draft of the Impact Fee Capital Improvements Plan (IFCIP) with the Consultant. Before the new draft IFCIP is finalized, City staff has requested that the Consultant prepare a summary of the options discussed by the City Council during the Work Sessions held in March, April, and May of this year. The summary will be a separate document and will include a table listing the actions that will have to be taken in order to move forward with each option (e.g., Do the land use assumption have to be revised?, etc.). It is important that the CIAC and City Council choose one option on which the IFCIP document and impact fees will be based upon and calculated. The purpose of this summary is to provide information in a concise format for the CIAC and City Council to use in making their decision.)*
5. **Aquatics Center** - *(Status report provided monthly on first, Regular City Council Meeting)*
6. **Vision 2040** - *(Staff has received the latest drafts from the consultant and is reviewing them. Public review of the draft documents began on Monday, September 21<sup>st</sup>. The*

*current drafts are posted on the Vision 2040 website and will also be available on CD and in print upon request. A week of public input meetings is scheduled for the week of October 19<sup>th</sup>. The consultant will also lead discussions with joint meetings of the City Council and County Commission as well as the region's Planning Commissions. The meeting schedule will also be posted on the website.)*

7. **Grants/ARRA Status** - (Matrix.)

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X. **GENERAL DISCUSSION**

1. **Mayor**

Mayor Miyagishima said I was told that our area is very hot but there is a lot of water underneath which is hot and very salty. They said if we could find a company to take the Geothermal power that is underneath there it could be used as a means of power. Mr. Hursh, can your company do anything like that and if so, then can that power be given back to the grid and use it for lower rates?

Ron Hursh said yes, of course. Geothermal is great opportunity for Las Cruces and it will increasingly become a viable economic and energy source.

Mayor Miyagishima said there was a Las Cruces Police Officer that was hurt on their motorcycle and I wanted to get an update on his status.

Chief Romero said he was released from the hospital last week.

Mayor Miyagishima said I still see a lot of the older motorcycles still on the road.

Chief Romero said they are being phased out.

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2. **City Council**

Councillor Archuleta said I attended the NMFA meeting that was hosted by the University and they made it very clear that there isn't any Capital Outlay money but they did ask for our list of priorities which we submitted to them.

I received an email from a resident in Encantada Park and he had some complaints with the Whole Enchilada Fiesta and all the noise that was created by the music. I will be meeting with the Parks Director to discuss how we can address some of these issues.

There was an article in yesterday's paper regarding sub-contractors municipal projects and how the

City still isn't working with them. That is something that we need to look into and address.

Councillor Connor said I don't think they were talking about City Councillors, it was at the staff level.

Councillor Archuleta said even if it was with the staff, we need to know about it and address it.

Terrence Moore, City Manager said we can meet with them on a one on one basis to address it.

Councillor Archuleta asked how do we get the word out to those individuals who are afraid to speak up on some of these issues?

Mayor Miyagishima said we can re-activate the Business Advisory Group to give everyone the opportunity to meet and discuss issues or concerns they need to have addressed.

I received a call over the weekend regarding the lack of ADA port-a-potties at the Whole Enchilada Fiesta.

Councillor Archuleta said I have submitted that compliant to the TWEF board.

Councillor Connor said I did see a number of ADA restrooms at the TWEF.

Brian Denmark, Facilities Director said there were numerous ADA facilities available.

Councillor Thomas said we had a District 6 meeting last week and if anyone would like to be put on the list for a copy of the minutes from our meetings then just email me at my city address and I will put you on our list.

There was a meeting last week with the Federal Rail Administration and there was a great turnout. We are looking for money to have a feasibility study done and they gave us some guidelines on how to get the study done correctly.

Councillor Jones said we have been receiving emails regarding the traffic problems in the Mesa Grande Estates area and I want to say that there has been some progress with the traffic issues regarding Onate High School.

I live off of Elks and I have been receiving a lot of comments regarding the work that was done on Elks and it has improved the traffic issues in that area.

I met with Mr. Garza to discuss several issues including the local purchasing issue and I think we should have an update given on that issue at our next meeting.

Councillor Small said I would like to thank everyone for attending our District meeting at the

Munson Center.

We appreciate the clean up of the weeds that was done in the Stewart Street area.

There is a new subdivision that is going in and we're down to the last few telephone poles that need to be removed so we will probably be in contact with them to make sure it is done.

Councillor Connor said about two weeks ago in my neighborhood there was a fire about ten houses down from mine and I called 911 when I first noticed that there was a fire and it only took the fire truck 8 minutes to get there which is well under the national response time requirement.

Yesterday, I had my annual burger cookout at Mesilla Park in the park area and there was a great turnout.

Tomorrow at 5:30 at Corbett Center on the second floor there will be a discussion regarding the moving of the bookstore.

I was asked about the stripping on the north end of Triviz and the new bike path, is there going to be signage on the actual pathway to state that bicycles should not be on the walking pathway?

Mike Johnson said we are working out the usage allowance on the path and we will have to think about the wording of any signage.

Councillor Connor said the complaint I got was from a gentleman who was walking on the pathway and a bike went past him going very fast. He doesn't feel it is safe to allow bikes on the walkway.

Me and my husband are going to be sponsoring a student from Zia Middle School to attend the US Space and Rocket Center in Huntsville Alabama. The students that are being sponsored have excelled in Math and Science but don't have the financial resources to attend this camp.

Councillor Silva said Campo Street is going to be reduced to three lanes due to the new Federal Courthouse and I wanted to know if there was going to be any bike lanes?

Mike Johnson said no, it isn't allowed because it doesn't have the necessary width for a bike lane.

Councillor Silva said I would encourage the residents to be patient with the movie crews regarding the closure of Highway 70 because this will be adding to our economy.

**3. City Manager**

**A. Status of Citywide Swimming Pool Enhancement Program.**

Brian Denmark, Facilities Director gave a presentation and said there has been a lot of activity on the Aquatic Center but we still don't have a swimming pool permit from the State Environmental Department. I have spoken with them and they have assured me that they will make sure we have at least a partial permit so we can begin the underground pipe work.

**B. Update Regarding Downtown Revitalization Activities.**

David Weir, Community Development Director gave a presentation and said the design plan is about 95% completed and there is a neighborhood meeting being held tomorrow at 6:00 p.m. for public input on what is currently taking place. We are planning on being able to begin construction around the end of December. Regarding the Farmers Market, most of the feedback we have been getting back has been positive. There have been some issues with things like lighting while the vendors are setting up and we are working on getting some kind of solar lights setup.

**C. Status of Development and Construction of the Intermodal Facility.**

Lori Grumet, Public Services Director gave a presentation and said the RFP is being developed for the project with a budget of \$190,000 and part of the RFP will be LEED Certification.

**D. Update from the Bicycle Friendly Community Task Force by Andy Hume.**

Presentation was given at the beginning of the meeting.

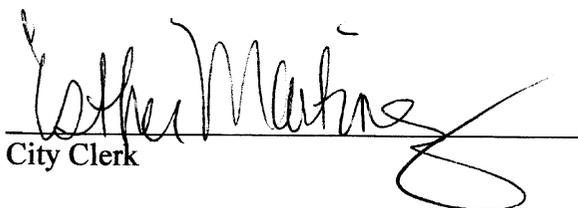
**E. Other Items - Information Only**

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**Meeting Adjourned at 5:44 p.m.**

  
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Mayor

ATTEST:

  
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City Clerk

(SEAL)