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

**Regular Meeting**

**February 16, 2010**
**1:00 P.M.**
**Council Chambers, City Hall**

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| **MEMBERS PRESENT:** | **STAFF:** |
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| Mayor Ken Miyagishima | Terrence Moore, City Manager |
| Councillor Miguel Silva, District 1 | Harry (Pete) Connelly, Acting City Attorney |
| Councillor Dolores Connor, District 2 | Esther Martinez, City Clerk |
| Councillor Olga Pedroza, District 3 | |
| Councillor Nathan Small, District 4 | |
| Councillor Gill Sorg, District 5 | |
| Councillor Sharon Thomas, District 6 | |

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## I. OPENING CEREMONIES

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

Presentation of Certificates of Appreciation/Proclamations.

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

Councillor Silva presented a Medal of Appreciation to WWII Veteran W.J. Wallace.

Councillor Silva presented a Proclamation to B. Lee Coyne and Dr. Beth Vesco-Mock and declared February 14th thru February 20, 2010 as Pet Affinity Week.

Councillor Silva presented a Department of Finance and Administration Budget Award to Dick Gebhardt, Budget Director.

Bea Valdes-Gonzales gave a presentation on the Aging and Long-Term Services Department Older Worker program.

Toby Michael gave a presentation on the Family Residential Center.

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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

Nellie Trujillo, Member of the Public said I want to bring Council Bill 10-037; Ordinance 2566 to your attention which is regarding the RV parking on our streets. There are two RVs' in our neighborhood that have been parked there for a while and we need re-enforcement to get them off of our roads because they take up a lot of space.

Charles Green, Member of the Public said I have been an RVer for years and I think this RV ordinance is very good.

Peg Peters, Member of the Public handed out pictures to Council and said regarding the RV ordinance, I feel it is an imposition on the neighbors to have RVs blocking the streets and the sidewalks.

Scott Thatcher, Member of the Public said the ordinance gives RVers two days to pack or unpack and that isn't enough time.

Dave Langley, Member of the Public said I have an RV and I agree that two days isn't enough time. I think 72 hours would be sufficient enough time.

Dan Jett, Member of the Public said I think the Lions that were moved from the old City Hall to the new City Hall should be located in front of the new City Hall; not in the park.

Lamar Wilson, Member of the Public said regarding the RV ordinance; there are some local limitations on our housing that aren't being enforced and there is a growing population of retirees; putting too many restrictions on them will discourage them from coming to our town. There needs

to be enough time for people to be able to park their RV in front of their house to unload or load and do minor repairs. I would agree with allowing them 72 hours to have it parked on the street.

Mayor Miyagishima said the RV ordinance was brought forward because we were receiving a lot of complaints regarding people who were living in their RVs.

Russ Warner, Member of the Public said I have never seen so much discussion on an item that is only a proposed ordinance. There needs to be more control of these meetings.

Jennie Curry, Member of the Public said I own an RV and I park it on the street because I can't afford to keep it in storage. It's a licensed vehicle and it should be allowed to be parked on the street.

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Esther Martinez, City Clerk said Resolution 10-194 was approved at the last meeting and we are asking that Council reconsider it because some of the figures where incorrect.

Councillor Thomas Moved to Reconsider Resolution No. 10-194 and Councillor Sorg Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Reconsider Resolution No. 10-194 and it was Unanimously APPROVED. 7-0

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Councillor Connor Moved to Adopt Resolution No. 10-194 and Councillor Silva Seconded the motion.

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David Dollahon, Neighborhood Services Director said the amounts listed on the original resolution were incorrect; therefore, we are submitting this substituted resolution with the correct information.

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Councillor Connor Moved to Amend Resolution No. 10-194 to accept the substituted resolution and Councillor Silva Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 10-194 to accept the substituted resolution and it was Unanimously APPROVED. 7-0

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-194 as Amended and it was Unanimously APPROVED. 7-0

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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.**

Mayor Miyagishima said Item 10 needs to be removed from the Agenda.

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

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

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**V. CITY COUNCIL MINUTES**

*(1) Regular Meeting of January 19, 2010

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

*(2) Resolution No. 10-201: A Resolution Authorizing the City of Las Cruces Police Department Victims Assistance Unit to Apply for a $30,450 Grant From the State of New Mexico, Crime Victims Reparation Commission, and to Approve the City Manager's Signature to Apply.

*(3) Resolution No. 10-202: A Resolution Authorizing the City of Las Cruces Fire Department to Accept $83,036 in Grant Funds From the Department of Homeland Security, Federal

Emergency Management Agency, FY 2009 Assistance to Firefighters Local Grant, Requiring a Cash Match of $20,758 Which is Allocated From the Fire Department's Emergency Services Org, and to Adjust the FY2010 Budget.

*(4) Resolution No. 10-203: A Resolution Authorizing the Branigan Cultural Center of Las Cruces - A Subsidiary of the Public Services Department - To Apply for the National Endowment for the Humanities "On the Road" Grant in the Amount of $1000.00, With a Required Cash Match of $2000.00, and to Ratify the City Manager's Approval to Meet the Grant Submission Deadline.

*(5) Resolution No. 10-204: A Resolution Authorizing the Railroad Museum to Apply for the New Mexico Humanities Council Mini Grant in the Amount of $2000.00, With a Required $1155.00 Match for In-Kind Services and a Required Cash Match of $845.00, to Ratify the City Manager's Approval to Meet Grant Submission Deadline, to Accept Grant Award in the Amount of $2000.00, and to Adjust the Fiscal Year 2009/2010 Budget.

*(6) Resolution No. 10-205: A Resolution Approving the Transfer of Foreclosed Properties From the City of Las Cruces to Tierra Del Sol Housing Corporation. The Properties are at 4752 Diamante Court and 2913 Onate Raod in Las Cruces. They Were Purchased Under the Authority of Resolution 10-009 by the City Manager for the City's Neighborhood Stabilization Program (NSP).

*(7) Resolution No. 09-10-474: A Resolution Authorizing the City to Trade Eleven Used Harley-Davidson FLHTP Electra Glide Motorcycles for Eleven New Harley-Davidson FLHTP Electra Motorcycles at No Cost to the City.

*(8) Resolution No. 09-10-465: A Resolution Approving Indefinite Quantity, Indefinite Cost Service Agreements for Fleet Paint & Body Repair Services to Barbara Holguin, DBA, Robert's Auto Painting, of Las Cruces, New Mexico and the Body Works, LLC, of Las Cruces, New Mexico for Up to Five (5) Years Subject to Approved Budget Appropriations and Mutual Agreement Annual Renewal.

*(9) Council Bill No. 10-035; Ordinance No. 2564: An Ordinance Amending the Las Cruces Municipal Code, Sections 15-1 Through 15-19, *Labor Management Relations*, to Bring the Code Into Compliance With the State of New Mexico Public Employee Relations Board.

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## VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

(10) Resolution No. 10-206: A Resolution Designating Gene Kennon, Mayor Pro Tem Emeritus And Dolores C. Archuleta, Mayor Pro Tem Emeritus.

Removed from the Agenda.

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(11) Resolution No. 10-207: A Resolution Authorizing the City of Las Cruces to Approve the City's Comprehensive Annual Financial Report for the Year Ending June 30, 2009.

Councillor Connor Moved to Adopt Resolution No. 10-207 and Councillor Small Seconded the motion.

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Bruce Bleakman, REDW CPA Firm gave an overhead presentation and said we are here to present the audit report we conducted for the City. The summary of the report finding is that it is a clean opinion on the financial statements and there is no material non-compliance; however, there were findings. The repeat findings were the cash and investment reconciliations, expenditures in excess of the budget and findings relating to technology. The new findings are independent reviews of payroll changes, there were two findings relating to mobile data terminal card charges which were payments that were being made to the vendor of these cards when in fact they weren't being used; the grant was charged for these charges and then it was discovered that these charges were inappropriate so the City reimbursed the grant. The new findings also included the record retention for bid documentation, duplicate mileage payments and required financial reports that were filed up to four days late.

Councillor Thomas asked is the repeat of some of these findings a cause for great concern?

Bruce Bleakman said I believe a lot of it is due to the change in responsibilities in the department.

Pat Degman, Comptroller said part of the issue with the findings was due to the turn over in the Treasury Department and our resources where spread very thin. We are now implementing a systematic approach in our Munis System and we are working with Wells Fargo but this wasn't done regularly in 2009 which caused the repeat finding.

Councillor Connor said this shows that our utilities are being ran very well and we're not having to dip into our fund reserves to run our utilities. We can't continue to dip into our reserves and when we go below the line, that shows me that we're spending more than what we have available.

Russ Warner, Member of the Public said you should be very proud of this audit.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-207 and it was Unanimously APPROVED. 7-0

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(12) Resolution No. 10-208: A Resolution Establishing an Ad Hoc Committee to Assist in Developing Criteria for a Historic Preservation Ordinance, and Authorizing the Mayor to Appoint Members to the Ad Hoc Committee in Accordance With This Resolution and Chapter Two of the Las Cruces Municipal Code, 1997, as Amended.

Councillor Connor Moved to Adopt Resolution No. 10-208 and Councillor Silva Seconded the motion.

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David Weir, Community Development Director gave an overhead presentation and said staff proposes that there be 19 members for this committee and we want to incorporate members from the historical neighborhoods and have a representative selected for each district.

Councillor Thomas said we have received several emails regarding this committee and one of the concerns they have is with the size of the committee. I think the Councillors should be able to select a representative from outside their district so we can get people with expertise on this board.

David Weir said we wouldn't have a problem with making it smaller.

Councillor Sorg said we need more experts on the members list and I agree with Councillors being able to select representatives out of their district.

Mayor Miyagishima said I would suggest that we set up it up with a simple majority to pass items.

David Weir said we can set up with a 1/4 plus one of the members that show up. We can delete the voting section of exhibit A and change it to read "to be determined."

Councillor Connor said I think we should choose someone from within our districts to represent it.

Councillor Silva said I agree with selecting people from your own district.

Councillor Thomas said if we take the restriction of selecting from your own district off, that doesn't stop you from selecting someone from your district; it just allows you the opportunity to select outside your district if you choose too.

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Councillor Thomas Moved to Amend Resolution No. 10-208 to remove the geographic location requirement for selecting district representatives and Councillor Sorg Seconded the motion.

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Ron Camunez, Member of the Public said I think you should also include a representative from NMSU. I don't agree with having this as an ad-hoc committee because this Council has a bad track record for not listening to the recommendations from their ad-hoc committees.

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Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 10-208 to remove the geographic location requirement for selecting district representatives and it was APPROVED. 6-1 Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas and Mayor Miyagishima voted Aye. Councillor Connor voted Nay.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-208 as Amended and it was Unanimously APPROVED. 7-0

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(13) Resolution No. 10-209: A Resolution Authorizing Change Order Number One to Increase the Contract With Bohannan Huston, Inc. Of Las Cruces, New Mexico for Additional General Engineering Services for the Main Street Plaza Phase II Project By $144,835.00 Plus $10,772.10 for New Mexico Gross Receipts Tax, for a Total Contract Increase of $155,607.10.

Councillor Connor Moved to Adopt Resolution No. 10-209 and Councillor Small Seconded the motion.

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Mike Johnson, Public Works Director gave an overhead presentation and said this is the first change order for the Main Street Plaza Phase II Design Project which is for the re-design of Lucero Street, the re-design of the electrical system and for environmental studies because there were 18 sites identified that use to be gas stations along the Downtown Mall.

Councillor Sorg asked were there 18 gas stations on Main Street at one time?

Mike Johnson said yes, there were 18 sites that were identify as having potential contamination.

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Mayor Pro-tem Thomas called for the roll on the Motion to Adopt Resolution No. 10-209 and it was APPROVED. 6-0 Mayor Miyagishima was Absent.

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## VIII. BOARD APPOINTMENTS

Mayor Pro-tem Thomas said Mayor Miyagishima appointed Heather Barrett to the South Mesquite Design Review Board.

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Councillor Connor Moved to Approve the Mayor's Board Appointment of Heather Barrett to the South Mesquite Design Review Board and Councillor Small Seconded the motion.

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Mayor Pro-tem Thomas called for the roll on the Motion to Approve the Mayor's Board Appointment of Heather Barrett to the South Mesquite Design Review Board and it was Unanimously APPROVED. 7-0

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## IX. REVIEW OF PROPOSED ORDINANCE(S)

(14) Council Bill No. 10-036; Ordinance No. 2565: An Ordinance Amending the Las Cruces Municipal Code, Section 7-1, *Definitions,* to Change the Definition of Professional Biologist so That it Means Only Those Persons With an Advanced Degree in the Biological Sciences, to Provide the Current Biological Nomenclature for Certain Prohibited Animals; and to Amend Section 7-19, *Rabies Control*, to Eliminate Subsection (e) so That All Animal Bites Are Reported to the District Health Office.

Mayor Miyagishima and Council agreed to bring this item back.

(15) Council Bill No. 10-037; Ordinance No. 2566: An Ordinance Amending the Las Cruces Municipal Code to Add Two New Sections Under Chapter 27, *Traffic* In Article VI, *Traffic Regulations,* That Restrict the Parking of Recreational Vehicles in Residential Areas With the Exception of Brief Periods of Time in Connection With Activities Such as a Planned

Trip, as Well as to Make it Unlawful to Occupy a Recreational Vehicle as a Residence With Certain Exceptions.

Mayor Miyagishima and Council agreed to bring this item back.

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## X. 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 – *(Foundation and concrete slabs are completed for the entire interior of the building with steel erection well underway for the kitchen, meeting room and ballroom sections of the facility. The exhibit hall will be the last section steel will be installed. Fencing will be moved in the near future to accommodate construction work that needs to be completed along the exterior of the building. Finalization of site and utility plans near complete in order to obtain a permit for utility installation to the building.)*
4. Downtown Main Street Construction - *(The project design is ongoing with Bohannan-Huston, Inc. Bohannan-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 February/March 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 was presented to the City Council at the January 11, 2010 City Council Work Session. The City Council requested additional information that staff will present at the February 17, 2010 City Council Work Session.)*
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 – *(Structural steel installation and enclosure of the aquatic center is near complete as well as roofing construction. EIFS, window, glazing and caulking activities in process as well as CMU wall construction in shower areas; insulation, gypsum board interior walls and ceiling systems among other activities. Pool construction is well underway with pool layout and forming in process, piping to pool near complete and pool piping itself to begin.)*
*(Staff is in the near process of finalizing direction to the consultants on how to proceed with schematic design of the proposed Natatorium now that public input has been collected. Additional hearings will occur to continue the public involvement process with the consultants conceptually designing specific elements of the facility.)*

8. Development and Construction of the New City Hall – *(Staff is finalizing preparation and plans for transition into the new facility. IT related installation of equipment has begun; orientation meetings are being held for all employees moving into the New City Hall; furniture, fixtures and equipment delivery and installation set to begin tentatively February 8th with actual transition of employees to begin February 16th. City Council Chambers is near complete with final inspections, punch list items and clean up underway. Site work continues with the east side parking lot concrete work and paving complete, striping of parking stalls to commence and activity well underway on the west side of the building to complete public parking, access to Main Street, landscaping among other site improvements.*

9. Development and Construction of the Intermodal Facility - *(The RFP for design of the Intermodal Facility has already closed and will be processed to the Selection Advisory Committee for review, ranking and recommendation to the City Council, anticipated in March for contractual consideration.)*

10. Bicycle Facilities Planning

11. EPA Smart Growth Implementation Assistance Program (SGIA) - *(The Phase One initial site visit by the EPA staff is scheduled for Wednesday, January 20, 2010. The purpose of the visit is to familiarize the EPA with the El Paseo area and bring together City staff, policy makers and the growing network of stakeholders. The agenda includes a group tour of the El Paseo area and meetings with city staff, policy makers, and stakeholders. The primary outcome of this visit will be a refined Scope of Work for the project, titled: Making Redevelopment Work for the Neighbors: The El Paseo Project. This is an on-going project for one year from October 2009 to October 2010. The main purpose of the project is to develop a robust public participation model that includes a deliberative planning and visioning process. Regular conference calls occur on Tuesday from 1:00-2:00 PM in Room 101 of the City Office Center, 575 Alameda Blvd.)*

12. New City Web Site – *(New web site is on track for deployment in Spring 2010. Public input on new web site has been obtained, and will be presented to Council. 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.)*

13. Downtown Revitalization Activities - *(The Las Cruces Downtown Tax Increment for Development Senate Bill 95 has been introduced by Sen. Papen, with a companion House Bill 112 introduced by Rep. Lujan. A contract has been awarded for construction of La Placita Phase One that includes a shade structure over Organ Ave. The Supportive Housing Coalition and the Las Cruces Housing Authority are proceeding with application for funding for a 60-unit project at Lohman and Alameda.)*
14. Police Auditor Procurement Update
15. Grants/ARRA Status - (Matrix.)

Councillor Thomas said I would like to have updates on our hiring of open positions.

Terrence Moore, City Manager said absolutely.

Councillor Silva asked will the public have an input on the selection process?

Terrence Moore said regarding the hiring of the Police Chief and the Fire Chief, I am simply offering the opportunity for an interested resident perhaps with qualifications and background in public safety, to be appointed by the City Manager as a member of the panel but we do have to follow the hiring procedures as required by our City Charter.

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Councillor Silva left the meeting at 5:05 p.m.

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## XI. GENERAL DISCUSSION

### 1. MAYOR

Mayor Miyagishima said I would suggest that Judge Miller-Byrnes be included on the panel for the selection of our Police and Fire Chiefs.

### 2. CITY COUNCIL

Councillor Thomas passed.

Councillor Sorg said I received an email stating that the Downtown TIDD is now on the Governor's desk.

Councillor Small said I would like to thank the Public Works Department for their work on patching pot holes.

There is a meeting tonight regarding a proposed development in District 4.

Councillor Pedroza said regarding the naming of a citizen for the hiring panel, will Council have an input in that selection?

Terrence Moore said no, Council has no input in that regard because of the rules of our City Charter.

Councillor Pedroza said I want to mention to all the residents that live in the area for the polling place of Hermosa Heights, you are all invited to the meeting at Hermosa Heights on Friday at 6:00 p.m. regarding the Community Gardens.

Councillor Connor said I spoke with PIO regarding the Community Connection that went out last week; it has now been one year since my neighborhood has received one. I spoke with several people in my neighborhood and in Mesilla Park and only a few have received it. We need to check with the Post Office and see what is happening with the distribution of the Connection.

I would like to get an update on the status of the ADA Advisory Board.

Esther Martinez, City Clerk said we have received applications for the ADA Advisory Board and they were forwarded to Mary Pierce who is our ADA Coordinator and I am waiting to hear from her on who is eligible to serve on the board.

Terrence Moore said we will discuss it tomorrow at the Executive Team meeting and I will come back to Council with an update.

Councillor Connor said I have received a request from Ronald Baldwin who is looking for resolutions in support of the recognition of Reservist. We can do an MOU and reach out to the Reservists for some of our open positions and they would like a resolution that recognizes the City as a U.S. Army Reservist Employer Partner. If everyone agrees then I will continue to work with Jared Abrams and Andre Moquin in the creation of this resolution.

Terrence Moore said that will be fine.

**3. CITY MANAGER**

**A. Comprehensive Status – American Recovery Reinvestment Act.**

Robin Rice, Grant Writer gave an overhead presentation and said to date, the City has received about $15.4 million in Recovery Act grant funds and our next actions are to complete the projects within the specific time frames, to continue to support the creation and retention of jobs and to ensure that error reports are submitted in a timely manner to ensure the transparency of the spending.

Councillor Thomas said I keep receiving emails regarding the funding for weatherization and those types of things; have we applied for any of that funding?

Robin Rice said no, we haven't gotten or seen those types of grants.

Brian Denmark, Facilities Director gave an overhead presentation and said we are waiting for a pass-through grant for the Convention Center and the main concern we have is with the draft agreement submitted by Energy and Minerals reference because of the prior deadlines that were submitted during the application process; due to the delay with their ability to provide us with a contract for award, we are unable to meet those deadlines at this particular time. As a result, we have contacted the State to see if we'll be able to submit some revision to the draft and they said they would consider some amendments to the draft.

Councillor Small said we want to make things that are solar ready; there would be an initial cost but we would be saving money over time. The original amount of this grant was $495,000, correct?

Brian Denmark said that is correct.

Councillor Small said I think we will need to look at our process for handling these types of projects and partnerships.

**B. Other Items - Information Only**

None given.

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**Meeting Adjourned at 5:50 p.m.**