

Regular Meeting  
June 7, 2010

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

**Regular Meeting**

**June 7, 2010  
1:00 P.M.**

**Council Chambers, City Hall**

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**MEMBERS PRESENT:**

**STAFF:**

- 14 Mayor Ken Miyagishima
- 15 Councillor Miguel Silva, District 1
- 16 Councillor Dolores Connor, District 2
- 17 Councillor Olga Pedroza, District 3 **Absent**
- 18 Councillor Nathan Small, District 4
- 19 Councillor Gill Sorg, District 5
- 20 Councillor Sharon Thomas, District 6

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

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**I. OPENING CEREMONIES**

- 25 Mayor Miyagishima called the meeting to order and asked for a moment of silence. Mayor
- 26 Miyagishima led the Pledge of Allegiance.
- 27
- 28 Janet Mazdra sang the National Anthem.
- 29
- 30 Presentation of Certificates of Appreciation/Proclamations.
- 31
- 32 Mayor Miyagishima and Laura Loos presented the Pet of the Week.
- 33
- 34 Mayor Miyagishima presented a Medal of Honor to WWII Veteran Joe B. Rel.
- 35
- 36 Mayor Miyagishima presented a Proclamation to Kevin Bixby and declared June 6<sup>th</sup> thru June 13,
- 37 2010 as Raft the Rio Week.
- 38
- 39 Mayor Miyagishima presented a Proclamation to Rosemary Maddox and Linnea Egbert and declared
- 40 June 17, 2010 as Mesilla Valley Garden Club Day.
- 41
- 42 Police Chief Richard Williams was sworn in by Judge Melissa Miller-Byrnes.
- 43

1 Police Chief Richard Williams said I would like to thank the City Manager, Mayor and this Council  
2 for entrusting me with this critical position within our City Government. I would like to thank  
3 Deputy Chief Bradley for his dedication to this community and for making this a smooth transition.  
4 I pledge to work tirelessly with the employees of the Las Cruces Police Department to improve  
5 public safety and ensure that we have a community that is safe and well protected from the violence  
6 and social dysfunction that plagues our society. I plan to work closely with the Senior Staff and  
7 immediately evaluate and audit the organization to make sure we have the proper goals, strategies  
8 and measures in place to ensure our success. My goal is to enhance the moral within the Police  
9 Department so Officers and employees come to work looking forward to serving their community.  
10 I plan on attending community meeting and engage the public in dialog so we can enhance the  
11 relationship between the Police Department and the citizens that we serve. My journey begins today,  
12 as a begin honorably serving the citizens of this community as the newest member of the Las Cruces  
13 Police Department.

14

15 Mayor Miyagishima presented the Distinguished Service Award to LCPD Officer Gil Mora.

16

17 Mayor Pro-tem Emeritus Archuleta presented Run for the Wall Awards to Mayor Miyagishima,  
18 Deputy Police Chief Pete Bradley, Police Chief Richard Williams and Fire Chief Travis Brown.

19

20 Greg Smith, President of Downtown Las Cruces Partnership presented the Heather Pollard Award  
21 to Ray Davenport

22

23 Denise LaFrance-Ojinaga gave a presentation on the CLC-TV Student PSA Contest Award Winners.

24

25 Terrence Moore, City Manager gave an update on the Dust Ordinance and said we will be bringing  
26 specific recommendations to Council at our July 19<sup>th</sup> Council Meeting.

27

28 Vincent Banegas, Planning & MPO Administrator gave a verbal presentation and said staff has  
29 begun preparation in the enhancements of our existing erosion control ordinances and at this point  
30 in time, we are looking at some best practices from other communities.

31

32 Robert Kyle, Building Official gave a verbal presentation and said we are reviewing our current  
33 ordinances for areas that aren't as strong as they should be and we are also reviewing ordinances  
34 from other jurisdictions relating to dust, air quality and those types of things. One of the biggest  
35 problems I have found with our ordinance is that it doesn't state what a violation is so we are trying  
36 to address that issue as well as others, to try to create a strong enforceable ordinance.

37

38 Councillor Silva asked what is the difference between our ordinance and a comprehensive one?

39

40 Robert Kyle said our ordinance doesn't really incorporate soil erosion and we need to include that  
41 and wind erosion because they go hand in hand.

1  
2 Councillor Thomas gave a verbal presentation and handed out a handout and said this is an issue that  
3 I have been working on for a long time and this handout lists some of things that I expect to be  
4 included in our ordinance.

5  
6 Councillor Sorg said the Valley Fever Conference was a big eye opener for me on how important  
7 it is to control our dust. I received a report from the EPA and I would encourage staff to read it.

8  
9 Mayor Miyagishima said I think we should make sure that all the developers have insurance to cover  
10 any damages that may occur when they are doing a project.

11  
12 Councillor Connor said we also need to address our older areas that don't have any construction  
13 going on but do have a lot of open space that causes a lot of dust issues when we have our strong  
14 winds.

15

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18 **II. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC**  
19 **SECTION 2-27(E)(2).** *At the opening of each council meeting, the chairperson shall ask*  
20 *if any member of the city council, city manager, or any member of the city staff has any*  
21 *known conflict of interest with any item on the agenda.*

22

23 Mayor Miyagishima asked if anyone had any conflicts with anything on the agenda?

24

25 None was given.

26

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29 **III. PUBLIC PARTICIPATION**

30

31 Russ Warner, Member of the Public said I would like to thank the City Manager for his decision on  
32 a Police Chief and a Fire Chief; they were both very good choices.

33

34 Margaret Markham, Member of the Public said I was recently surprised during a discussion  
35 regarding a public official when I was interrupted with the statement "I am not interested in history  
36 because I can't change it." I always thought it was worth looking at history to avoid past mistakes,  
37 especially when trying to steer clear of violating the law. A City Overlay document that was labeled  
38 "Draft Document Only; Do Not Cite" was just brought to me by a Pioneer Park area homeowner and  
39 under the State Law regarding Public Records, it states that any and all documents created in the  
40 course of City business are public; no matter the form, with the only exceptions being those excluded  
41 under the law; for example, personnel matters. Since all documents are public under the law;  
42 regarding the document mentioned above, I feel the law was violated by someone acting as a

1 capricious sensor by creating the quote "Do Not Cite." A second issue deals with another State Law  
2 for designating the parameters for the appointment of commission members authorized to oversee  
3 the Public Housing Program in this area. Last week, a local resident brought to my attention that the  
4 Board continues to meet with one member missing because a Commissioner resigned early in 2009  
5 and that position is still vacant. I hope the City will promptly move to comply with our State Law.

6

7 Ryan Dailey, Member of the Public said I would like to thank the City Manager on his selection for  
8 our Police Chief. He has a great resume and is very qualified for this job. I would like to see our  
9 policy changed to allow citizens to go on ride-a-longs with our Police Officers so we can see what  
10 they have to go through on a daily basis.

11

12 Mayor Miyagishima said I'm sure you would have to sign some kind of liability release but I will  
13 have our City Attorney check into that and see if ride-a-longs are possible.

14

15 Fernando Cadena, Member of the Public said I want to commend the City for looking at re-  
16 evaluating our City ordinances regarding our dust issues. I know you are considering adopting  
17 ordinances from other places but I have concerns with the way those are written and our situation  
18 but we do need to work on improving our enforcement of our dust ordinances.

19

20 David Roewe, Member of the Public said Councillor Thomas stated that there was a pending lawsuit  
21 from her group; is that correct?

22

23 Councillor Thomas said no, there is a group of citizens that are looking for compensation for  
24 damages that they have suffered on their property.

25

26 David Roewe said I know the Mayor has stated that you are not allowed to discuss any pending  
27 litigation and yet, you did state that they were considering suing the City.

28

29 Jim Harbison, Member of the Public said I attended the Mayor's meeting last week regarding  
30 Premier Park and I was disappointed by some of the Councillors comments stating that it was too  
31 hard to do. I would suggest that the City acknowledges that this park would be a benefit to the City  
32 and that they would do whatever they could to make it happen. I think you should create an Ad-Hoc  
33 Committee of concerned citizens to decide if this is too hard to do.

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37 **IV. ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY**  
38 **AN ASTERISK (\*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON**  
39 **BY ONE MOTION.**

40

41 Mayor Miyagishima said Items 5, 6, 7, 8 and 9 need to be removed from the agenda for discussion.

42



1

2 Councillor Sorg said I don't understand what is being rented?

3

4 Deputy Chief Pete Bradley said the operation is currently housed in a rented building and there is  
5 some rental spaces that goes along with it.

6

7 Councillor Thomas said I just want to say that I think that a lot of this money is going toward rent  
8 and if possible, we should look at other options.

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12 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-293 and it was  
13 APPROVED. 5-0 Councillor Pedroza and Councillor Sorg were Absent.

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17 \*(6) Resolution No. 10-294: A Resolution Approving the Collective Bargaining Agreement  
18 Between the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied  
19 Industrial & Service Workers International Union (USW) and the City of Las Cruces.

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21 Councillor Connor Moved to Adopt Resolution No. 10-294 and Councillor Silva Seconded the  
22 motion.

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26 Mayor Miyagishima said Councillor Sorg asked to have this pulled for discussion but since he isn't  
27 here, we can just go to the vote.

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31 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-294 and it was  
32 APPROVED. 5-0 Councillor Pedroza and Councillor Sorg were Absent.

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36 \*(7) Resolution No. 10-295: A Resolution Approving the Designation of La Llorona Park River  
37 Walk as the Formal Location for a Memorial Walkway Sponsored by Transplant Recipient  
38 International Organization Inc. - Southern New Mexico Chapter.

39

40 Councillor Small Moved to Adopt Resolution No. 10-295 and Councillor Connor Seconded the  
41 motion.

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2  
3 Councillor Connor asked was this ever presented to the Parks and Rec Board?  
4

5 Brian Denmark, Facilities Director said nothing was presented to the Parks and Recreation Advisory  
6 Board. This is to allow this particular group to seek funding in order to come back before Council  
7 with a more formalized concept which at that point, we would present it to the Board.

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10  
11 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-295 and it was  
12 APPROVED. 6-0 Councillor Pedroza was Absent

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14 -----  
15  
16 \*(8) Resolution No. 10-296: A Resolution Authorizing the City of Las Cruces to Participate in  
17 the Summer Food Service Program in Conjunction With the Las Cruces Public School  
18 System and the New Mexico Department of Children, Youth and Families, for a Total  
19 Estimated Cost of \$265,000, Which is Federally Funded and Does Not Require a Local  
20 Match.

21  
22 Councillor Connor Moved to Adopt Resolution No. 10-296 and Councillor Silva Seconded the  
23 motion.

24  
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26  
27 Councillor Sorg asked is this program free to all the children that come to it?

28  
29 Claudia Chavez, Public Services said that is correct.

30  
31 Councillor Sorg asked why isn't this done through the schools instead of the City?

32  
33 Claudia Chavez said this is a supplement meal for children during the time that school is out.

34  
35 Brian Denmark, Facilities Director said we want to tie our recreational programs with this program  
36 so they're not just coming to have lunch, they are participating in an activity.

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40 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-296 and it was  
41 APPROVED. 5-0 Councillor Pedroza and Councillor Thomas were Absent.

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\*(9) Resolution No. 10-297: A Resolution Authorizing the Final Change Order and Approving Final Payment to Burn Construction Company for the Del Rey Blvd. Reconstruction, Project Number 08-09-625, NMDOT Project Number MAP-5557(902)00, CN:WH2L1029.

Councillor Connor Moved to Adopt Resolution No. 10-297 and Councillor Silva Seconded the motion.

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Councillor Silva asked why was there an extension?

Mike Johnson, Public Works Director said we are asking for forty additional days for this project which ten of them were due to Qwest installing a new communication line, there were thirteen bad weather days and seventeen days were due to work on Settlers Pass that was done due to the filming of a movie.

Councillor Silva asked is this a City Manager's Policy that we are trying to change?

Mike Johnson said it is a Change Order Policy that was approved by Council.

Councillor Sorg said a large portion of this change order is due to the work on Settlers Pass; was this reimbursed by the film company?

Mike Johnson said the cost of the improvements to Settlers Pass was \$23,000 and \$20,000 was reimbursed to us by the film company.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-297 and it was APPROVED. 6-0 Councillor Pedroza was Absent

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(10) Resolution No. 10-298: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction for a Restaurant Liquor License (Beer & Wine On-Premise Consumption Only) for M & M's Leaping Lizards, L.L.C. D/B/A La Iguana Restaurant to be Located at 139 North Main Street, Las Cruces, New Mexico.

Councillor Small Moved to Adopt Resolution No. 10-298 and Councillor Sorg Seconded the motion.

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2  
3 Harry (Pete) Connelly, Interim City Attorney said this is a request for a waiver on a liquor license  
4 that is within 300 feet of a church. We have not received any indication that there is anything wrong  
5 or illegal about passing this waiver and there have not been any protests from anyone.

6  
7 Councillor Silva said we are looking to bring more businesses and restaurants to enhance the  
8 Downtown area and I think this will really add to it.

9  
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11  
12 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-298 and it was  
13 APPROVED. 6-0 Councillor Pedroza was Absent.

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17 (11) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 10-299;**  
18 **A PUBLIC HEARING MUST BE HELD:**

19  
20 Mayor Miyagishima opened this item up for a Public Hearing and asked if there was anyone who  
21 wanted to speak against this item.

22  
23 No one responded

24  
25 Mayor Miyagishima closed the Public Hearing.

26  
27  
28 Resolution No. 10-299: A Resolution Approving the Issuance of a Restaurant Liquor  
29 License (Beer & Wine On-Premise Consumption Only) to M & M's Leaping Lizards, L.L.C.  
30 D/B/A La Iguana Restaurant to be Located at 139 North Main Street, Las Cruces, New  
31 Mexico.

32  
33 Councillor Connor Moved to Adopt Resolution No. 10-299 and Councillor Silva Seconded the  
34 motion.

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38 Cindy Fargo, Downtown Las Cruces Partnership said we have been very involved with seeing this  
39 project through and we will be celebrating once it is open for business.

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1 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-299 and it was  
2 APPROVED. 6-0 Councillor Pedroza was Absent.

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6 (12) Resolution No. 10-300: A Resolution Allowing Transit Section Staff to Apply to the Federal  
7 Transit Administration for Appropriated Federal Fiscal Year 2008 and 2009, Section 5309  
8 Capital Funds in the Amount of \$650,000 Requiring a City Match of \$162,500 for the  
9 Purpose of Enhancing the Grant Funding Applied to the Transit Intermodal Center in FY  
10 2012.

11

12 Councillor Connor Moved to Adopt Resolution No. 10-300 and Councillor Small Seconded the  
13 motion.

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17 Councillor Connor Moved to Suspend the Rules and discuss Items 12, 13 and 14 concurrently and  
18 Councillor Thomas Seconded the motion.

19

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21

22 Mayor Miyagishima called for the roll on the Motion to Suspend the Rules and discuss Items 12, 13  
23 and 14 concurrently and it was APPROVED. 6-0 Councillor Pedroza was Absent.

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27 Mike Bartholomew, Transit Administrator gave an overhead presentation and said these funds are  
28 being sought for enhancing the overall project of our Transit Intermodal Center. Resolution 10-300  
29 is seeking \$650,000 in FTA Section 5309 FY08/09 funds to enhance the grant funding for the Transit  
30 Intermodal Center in FY12, Resolution 10-301 is seeking to obligate \$1,288,075 in Section 5307  
31 Formula FY10 funds to assist with FY11 Transit Operations and Resolution No. 10-302 is seeking  
32 to obligate \$146,700 in FTA Section 5409 FY08 funds to purchase replacement DAR vans in FY12.

33

34 Councillor Thomas said when these types of thing come before Council, we want to know what  
35 funding has already been approved and what you are asking for in terms of more money. I think a  
36 portion of the matching funds have already been approved for the first resolution; correct?

37

38 Mike Bartholomew said of this addition that we are adding; \$162,500 would be the City's share and  
39 the upper part of the chart that I showed you, that portion of the City's share has already been set  
40 aside.

41

42 Councillor Thomas said that money is coming out of the General Fund.

1 Mike Bartholomew said the General Fund is our main source of funding.

2

3 Councillor Thomas said I would like to have that information in the resolution and I would also like  
4 to have some assurance from our Finance Department that it is okay to take more funds from this  
5 fund account.

6

7 Mike Bartholomew said these resolutions have to be signed off by our Finance Department before  
8 we can bring them forward to you.

9

10 Councillor Thomas said I would still like to have that information included in our resolutions.

11

12 Mike Bartholomew continued his overhead presentation and said it is routine to use Section 5307  
13 Formula Funds for our transit operations and there is about \$1.3 million of those available that  
14 require a fifty percent match and we do have funds in our budget to cover the matching funds.

15

16 Councillor Silva asked what is the cost of this Intermodal Center?

17

18 Mike Bartholomew said we will know the amount as we go through the process but if we receive  
19 all the funding, it would be approximately \$3.6 million.

20

21 Councillor Silva asked is the Engineer Design completed?

22

23 Mike Bartholomew said it was approved by Council last month so it is starting up now.

24

25

26

27 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-300 and it was  
28 APPROVED. 7-0 Councillor Pedroza was Absent.

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32 (13) Resolution No. 10-301: A Resolution Allowing Transit Section Staff to Apply to the Federal  
33 Transit Administration for Federal Fiscal Year 2010, Section 5307 (Formula) Funding in the  
34 Amount of \$1,288,075 as Apportioned to the City of Las Cruces by Congress.

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36 Councillor Connor Moved to Adopt Resolution No. 10-301 and Councillor Silva Seconded the  
37 motion.

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41 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-301 and it was  
42 APPROVED. 6-0 Councillor Pedroza was Absent.

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(14) Resolution No. 10-302: A Resolution Allowing Transit Section Staff to Apply to the Federal Transit Administration for Appropriated Federal Fiscal Year 2008, Section 5309 Capital Funds in the Amount of \$146,700 Requiring a City Match of \$30,047 for the Purpose of Buying Paratransit Vehicles in FY2012.

Councillor Small Moved to Adopt Resolution No. 10-302 and Councillor Connor Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-302 and it was APPROVED. 6-0 Councillor Pedroza was Absent.

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(15) Resolution No. 10-303: A Resolution Allowing Transit Section Staff to Apply to the Federal Transit Administration to Obtain Grant Funding From the State of Good Repair Bus and Bus Facilities Initiative in the Amount of \$4,200,000 With a City Match of \$840,000. Funds Will be Used for the Construction of a New Bus Operations and Maintenance Center to be Located on Motel Blvd.

Councillor Sorg Moved to Adopt Resolution No. 10-303 and Councillor Silva Seconded the motion.

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Eric Martin, Project Management Administrator gave an overhead presentation and said this grant would allow us to follow through some of our long-term plans to consolidate some of our facilities. We have already accomplished moving all our Administrative Departments under one roof and our next goal is to have all of our Operation Departments that are currently at our Hadley Complex area, moved to one location. We are planning on moving them to a new location on Motel Boulevard and the Conceptual Master Plan for that facility was brought before Council back in 2008. The amount of the grant is \$4.2 million and there is a required match amount of approximately \$840,000. This resolution would allow us to submit a project proposal which is kind of a pre-application and then if the proposal is approved by the Federal Transit Administration then staff would apply for the grant.

Mike Bartholomew, Transit Administrator said this is a more competitive process; Congress has appropriated a certain amount of money for the State of Good Repair so now they are asking agencies to submit proposals for portions of that funding.

1 Councillor Sorg said we do need a new facility to handle our Vehicle Repair Shop and I support this  
2 proposal.

3

4 Councillor Connor asked how much land do we use for our Transit Facility at our Meerscheidt site?

5

6 Brian Denmark, Facilities Director said I don't know if we have an accurate number but everything  
7 from the Aquatic Center east is 24 acres which is used for our Operations and I think about two or  
8 three acres is used just for our Transit.

9

10 Councillor Connor said we need to remember that we will be moving other facilities to the Motel  
11 Boulevard location so I don't want us to use up the majority of that space just for our Transit.

12

13 Eric Martin said we did allocate space for all our functions in the Master Plan.

14

15 Councillor Silva asked what is the estimated cost for the total project?

16

17 Eric Martin said the Transit is approximately \$5.8 million, the Fleet and Maintenance is about \$11.8  
18 million and the Maintenance Shops, storage and parking is about \$4.8 million so the total estimated  
19 cost for the project is approximately \$22.4 million and if we include the furnishing, fixtures,  
20 equipment, architectural and engineering, the cost is approximately \$24.9 million.

21

22 Councillor Silva said so, we are just going for funding for the Transit portion; correct?

23

24 Eric Martin said correct.

25

26 Councillor Thomas said if we approve this resolution, we aren't committing to the other 20%; we're  
27 just saying that if we get the money then we will decide how we can get the other 20% at that time.

28

29 Brian Denmark said that is correct. This resolution is only giving staff permission to apply for it.

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33 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-303 and it was  
34 APPROVED. 6-0 Councillor Pedroza was Absent.

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38 (16) Resolution No. 09-10-486: A Resolution Authorizing a Professional Services Contract for  
39 Police Auditor Services with Police Executive Research Forum of Washington, DC in the  
40 Amount of \$49,600 plus Applicable Gross Receipts Tax.

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1 Councillor Silva Moved to Adopt Resolution No. 09-10-486 and Councillor Thomas Seconded the  
2 motion.

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6 Robert Garza, Assistant City Manager gave an overhead presentation and said this is to authorize  
7 a Service Contract for Police Auditor Services. The cost for this service is not to exceed \$49,600  
8 plus applicable taxes which is within the City Manager's approval authority but we wanted to bring  
9 this forward to Council as per their direction and because the auditor will be responsible to Council.  
10 The term of this contract is for one year with up to four annual renewals. The funding for this  
11 contract was included in our budget and will be available on July 1<sup>st</sup>. The three basic tasks are to  
12 evaluate LCPD/PSU investigations as to accuracy and completeness for all citizen compliants,  
13 perform a risk assessment of the LCPD and prepare an Audit Plan based on the high risk areas and  
14 make independent policy recommendations from an in-depth review of policies, procedures and  
15 training that impact police accountability and the disciplinary system. There are five basis functions  
16 of the auditor which are to audit the complaint process, audit police operations, review policies,  
17 engage in community outreach and to create greater openness to Police Departments.

18

19 Councillor Silva said I don't think that this contract would deliver on some of the issues that we are  
20 needing to have addressed. I think maybe we should table this until our next meeting so we'll have  
21 time to read through this and I would like to discuss it with our new Chief.

22

23 Mayor Miyagishima said we did discuss this during our Closed Meeting which Councillor Silva was  
24 unable to attend but we did state that complaints concerning excessive or deadly force would be  
25 submitted to the auditor. All the complaints would go through the regular process and a summary  
26 would be submitted to the auditor and if they thought there was something there that needed to be  
27 investigated then they would check into it. I don't think we should table this item because a lot of  
28 our questions were answered during the Closed Meeting.

29

30 Councillor Silva said I don't think it would be that big of a setback because they have a starting date  
31 of July 5<sup>th</sup> which gives us some time. The way this is written, it seems that they are only going to be  
32 checking to see if the complaint forms are filled out correctly; not investigating them.

33

34 Mayor Miyagishima said it is not their place to decide what should happen to the Officer, that is up  
35 to the Chief and the City Manager. They are only making sure that the policies and procedures were  
36 followed correctly.

37

38 Councillor Silva said that is not what is stated in the contract.

39

40 Robert Garza said the task for this service is on-going. They are an auditor, they are going to focus  
41 on process improvements and risk litigation. They are going to protect us from exposure to risk.

1 They are not hired to look backwards, they're hired to look at where we are right now and when we  
2 send them a report, they are to report back to us on any concerns they see for these situations.

3

4 Councillor Silva said I just don't see that written in this contract. I would feel more comfortable if  
5 I was able to sit down and speak with the Chief to get his opinion on this contract.

6

7 Councillor Small said during our meeting, we were very insistent that every complaint is forwarded  
8 to the auditor. I don't think it would be appropriate for an outside agency to recommend disciplinary  
9 actions for our Officers.

10

11 Councillor Silva said I think if someone files a complaint, they want to make sure that they have due-  
12 process and I don't see that included in this contract.

13

14 Mayor Miyagishima said it sounds like you want someone to take a look at everything but that's  
15 staff's job and they do it well. This auditor is just there to make sure that the policies and procedures  
16 are being followed.

17

18 Councillor Connor said this auditor would not be an employee of the City Council; correct?

19

20 Robert Garza said that is correct.

21

22 Councillor Connor said I just want to make it clear that this person does not report to us. We will  
23 review it, just as we do when our review audits from our own Internal Auditor but we can't direct  
24 them without the involvement of the City Manager.

25

26 Robert Garza said that is correct. The Chief and the City Manager are the Points of Contact.

27

28 Councillor Connor said this starts on July 5<sup>th</sup> and they will be looking from that point forward; they  
29 will not be reviewing any past cases. People will still have to go through our internal review process  
30 before it is reviewed by the auditor.

31

32 Robert Garza said that is correct.

33

34 Councillor Small said it seems that the recommendations will solely be through the quarterly reports;  
35 can they recommend policy changes in these reports?

36

37 Robert Garza said absolutely.

38

39 Chief Richard Williams said I am confident that we probably won't have to wait for the quarterly  
40 reports to see the needed changes because as Officers begin to understand these organizations better  
41 and start taking a look at these cases on a case by case basis then they'll begin to see where there  
42 needs to be changes.

1 Mayor Miyagishima said Chief Williams, you did some of this type of work with the State Police;  
2 correct?

3

4 Chief Richard Williams said that is correct, I was in charge of Internal Affairs.

5

6 Councillor Small asked how much scrutiny will the provider be offering in individual cases? If there  
7 are requests from either the public or Council, can we ask them to give us more scrutiny in individual  
8 cases?

9

10 Robert Garza said there isn't a standard form so each case will have different information but they  
11 will be looking to see if there is sufficient information to justify the actions, is it clear enough, is it  
12 complete enough and are there any questions left on their mind and if there are questions left in their  
13 mind after they read the reports then they are going to ask those questions.

14

15 Councillor Small asked if there are still follow up questions left in someone's mind, then can they  
16 request for more information?

17

18 Robert Garza said all the information that is submitted to the Police Department for the internal  
19 process is the same material that is sent to the auditor so both sets of eyes are looking at the same  
20 materials.

21

22 Councillor Small asked what happens if we are not satisfied with their performance on cases that are  
23 forwarded to them?

24

25 Robert Garza said the contract has a clause that allows us to terminate within 30 days of any given  
26 point in time.

27

28 Councillor Sorg said in some of the more serious complaints, it may be necessary to have a face to  
29 face meeting with the complainant; is that included in the contract?

30

31 Robert Garza said the contract does contemplate some effort to be put into interviewing people and  
32 the company doesn't expect to have to do a lot of that because a lot of people who file complaints  
33 don't want to go "on the record".

34

35 Councillor Silva said I do think this will be a good tool to improve and help tailor the system to us.

36

37

38

39 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-10-486 and it was  
40 APPROVED. 6-0 Councillor Pedroza was Absent.

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(17) Resolution No. 09-10-529: A Resolution Awarding the Bid for the Amador Avenue Rehabilitation Phase IIA Project to Burn Construction Company of Las Cruces, New Mexico for the Base Bid Plus Additive Alternate Number 1 in the Amount of \$747,496.20, Plus \$55,595.03 for New Mexico Gross Receipts Tax. The City Manager is Authorized to Approve Change Orders in an Amount Not to Exceed \$58,649.97, for a Total Project Authorization in the Amount of \$861,741.20; and to Amend the Fiscal Year 2009/2010 Budget.

Councillor Connor Moved to Adopt Resolution No. 09-10-529 and Councillor Small Seconded the motion.

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Mike Johnson, Public Works Director gave an overhead presentation and said we planned to do the Amador Project in three phases and this is for the approval to begin Phase II of the project which is to complete improvements from Archuleta Road to Seventeenth Street. The original plan was to complete improvements from Archuleta Road to Pioneer Place but we don't have enough funding at this time to complete that full area; however, if funding does become available then we will add the improvements from Seventeenth Street to Pioneer Place as a change order.

Councillor Thomas said all the funding was already approved by Council except about \$30,000; correct?

Mike Johnson said correct; the \$30,000 is just being transferred from one fund account to another.

Councillor Thomas said I would like to see that information included in the resolution because it reads like you are asking for approval of all the funding.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-10-529 and it was APPROVED. 6-0 Councillor Pedroza was Absent.

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**VIII. BOARD APPOINTMENTS**

Mayor Miyagishima appointed Janet Acosta to the Extra-Territorial Zoning Commission.

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1 Councillor Connor Moved to Approve the Mayor's Board Appointments of Janet Acosta to the  
2 Extra-Territorial Zoning Commission and Councillor Silva Seconded the motion.

3

4

5

6 Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's Board Appointments  
7 of Janet Acosta to the Extra-Territorial Zoning Commission and it was APPROVED. 6-0 Councillor  
8 Pedroza was Absent.

9

10

11

12

13 **IX. REVIEW OF PROPOSED ORDINANCE(S)**

14

15 None given.

16

17

18

19 **X. STATUS/UPDATES ON CURRENT PROJECT LIST**

20

21 1. **Strategic Plan** - *(Implementation documents being prepared, finalizing plan for council  
22 review and consideration.)*

23 2. **Las Cruces Convention Center** – *(The exterior part of the building is close to complete.  
24 Work continues on the stucco color coat, and that is estimated to be 80% complete at this  
25 time. Site utility installation, including electrical, continues. For the interior of the  
26 building, the primary work in process at this time is electrical and heating, ventilation,  
27 and air conditioning installation.)*

28 3. **Downtown Main Street Construction** - *(The project design is ongoing with Bohannan-  
29 Huston, Inc. Bohannan-Huston has completed the design for the north end portion of the  
30 project. The City is currently in the process of receiving final prices for the northern  
31 portion and should be going to Council for approval in April /May 2010. Bohannan-  
32 Huston has begun the design of the southern portion of the project)*

33 4. **Impact Fees** – *(The project is on-going and is in Phase II - Development of the Impact  
34 Fee Capital Improvements Plan (IFCIP). City Council solidified their direction to staff to  
35 proceed with exempting the "In-fill" area of the city; keeping the Public Safety fee as a  
36 city-wide fee; and, to consider excluding or showing the West Mesa Industrial Park  
37 separately by approving the change order to the contract with James Duncan and  
38 Associates on May 17, 2010. Staff will work with the consultant to modify the LUA and  
39 the draft IFCIP and to bring them forward for review and approval through the  
40 appropriate process.)*

41 5. **Vision 2040** – *(Staff has taken over the Vision 2040 project from the consultant and is  
42 moving ahead with the action plan reviewed by the elected officials on April 15, 2010.*

- 1 Staff is preparing a vision statement for endorsement in May and a working draft of the  
2 regional vision document using the Table of Contents presented. Staff is restructuring the  
3 Advisory Committee to add stakeholders and define responsibilities, with the next  
4 meeting tentatively scheduled in the first part of June. The Advisory Committee will  
5 review updated versions of the working draft in sections over the next several months  
6 with regular updates to the elected officials. Information and draft documents on Vision  
7 2040 are available online at <http://vision2040.nmsu.edu>.)
- 8 6. **Regional Recreational & Aquatic Center** – (The exterior of the building is close to  
9 complete. Site work is in process which includes installation of site utilities and  
10 construction of the parking lot and access lanes. For the interior, work is primarily  
11 concentrated on completing the pools. This includes installation of tile and pool  
12 filtration equipment. In the common areas such as the offices, storage, etc., cabinetry in  
13 being installed)
- 14 7. **Las Cruces Intermodal Facility** - (Contract for architectural and engineering services  
15 complete with notice to proceed on the project.)
- 16 8. **Bicycle Facilities Planning** - (May is National Bicycling Month. The Education and  
17 Encouragement Work Group of the Bicycle Friendly Community Task Force (BFC) is  
18 working on several ideas for events in May. The proposals include a series of  
19 neighborhood bicycle rides, a series of articles promoting bicycling in Las Cruces, Bike  
20 to Work Day on May 21<sup>st</sup>, the Ride of Silence on May 19<sup>th</sup>, and a proclamation declaring  
21 May as National Bicycle Month.)
- 22 9. **EPA Smart Growth Implementation Assistance Program (SGIA)** - (Making  
23 Redevelopment Work for the Neighbors: The El Paseo Project. The main purpose of this  
24 project is to develop a model for engaging people in planning their community. This  
25 project focuses on the area along and within walking distance of El Paseo Road between  
26 Downtown and the University District. The EPA staff team and federal partners from  
27 Federal Highway Administration (FHWA) and Housing and Urban Development (HUD)  
28 are working together with City staff, policy makers, residents and businesses. A number  
29 of events are being discussed like Photo Tours/Assessments, Walk & Safety Audits in May  
30 and June, a Green Infrastructure Workshop in late August, a Pedestrian Road Safety  
31 Audit in September and a Visioning Charrette in November. Staff is continuously  
32 reaching out to a diverse set of public and stakeholders in the El Paseo area, and is  
33 available to discuss this project with any interested parties or individuals. Regular  
34 conference calls occur on Tuesday from 1:00-2:00 PM in Room 1158, City Hall, 700  
35 Main Street.)
- 36 10. **New City Web Site** – (The new web site is scheduled to go live in the July-August  
37 timeframe. Content from the current web site is being migrated to the new site. Some  
38 significant re-work of content is required to provide a unified design and user interface  
39 functionality, and to upgrade existing content to ADA and Section 508 standards.  
40 Departmental stakeholders (who will be responsible for authoring content) have been  
41 involved in a number of meetings to provide inputs on the new web site as well. The new  
42 site will support greater citizen engagement by providing citizens the ability to receive

1 *information via RSS feeds, newsletters, and alerts, as well as providing new content and*  
 2 *capabilities. The next phase in the project will involve training departmental authors in*  
 3 *the use of the content management system editor, authoring methods, and pertinent*  
 4 *standards, guidelines, and laws.)*

5 11. **Downtown Revitalization Activities** - (Construction on La Placita has started and is  
 6 *expected to take 9 months. City staff is in the process of forming a Downtown*  
 7 *Revitalization Plan Ad Hoc Committee.)*

8 12. **Grants/ARRA Status** - (Matrix.)

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11  
 12 **XI. GENERAL DISCUSSION**

13  
 14 1. **MAYOR**

15  
 16 Mayor Miyagishima said at the last meeting I had regarding the Las Cruces Country Club, I couldn't  
 17 really get a sense of what direction they wanted to go so I would like to recommend that we have a  
 18 poll to see what the public wants us to do regarding this property.

19  
 20 I received an email from Curtis Graham regarding the Mesilla Park Recreation Center and he  
 21 checked on the rooms in the facility and discovered that several of them weren't being utilized after  
 22 5:00 p.m. I think our current rate is \$15 an hour to rent one of these rooms and he suggested that we  
 23 look at charging a flat rate of \$250 for 30 room uses after 5:00 p.m. to generate some funds.

24  
 25 I want to mention that the contract we just approved could have been approved by the City Manager  
 26 without bringing it before Council but when it comes to settlements, he only has authority to approve  
 27 up to \$35,000. I would suggest that we increase that amount to \$50,000 which is the same  
 28 allowable amount for him to approve on contracts.

29  
 30 Councillor Connor said I would be hesitant to change that amount because we don't have enough  
 31 lawsuits to justify that increase and I don't want to make it that easy to just give someone \$50,000.

32  
 33 Councillor Silva said I think it would take away from our strategic tools for settlements if we give  
 34 more to the City Manager.

35  
 36  
 37 2. **CITY COUNCIL**

38  
 39 Councillor Thomas said I have attended the meetings regarding the Las Cruces Country Club and  
 40 I think the majority of the people wanted us to take the entire property and not sell off pieces of it.  
 41 My main issue is that the ownership of this property keeps changing so even if we go through the  
 42 poll, we still don't know that we would be the ones allowed to buy it.

1 There is an on-going problem in District 6 with group mailboxes being placed on the road so people  
2 who drive their cars to check their mailboxes, have to park in the middle of the street. We have been  
3 working with Public Works and we are making some progress with the developers but I want to  
4 make sure this doesn't happen again so I would like to make some kind of change in our City Code  
5 to prevent this from happening.

6

7 My husband watches our Council Meetings and informed me that I did say that this person from that  
8 group was going to sue the City regarding the Dust Issue and I would like to retract that statement.  
9 This group only said they were considering litigation but they didn't mention suing the City.

10

11 Mayor Miyagishima said I would still like to move forward with a poll so we would get an idea on  
12 what actions to take for the Country Club property.

13

14 Councillor Sorg said there appears to be plenty of time for us to decide on what to do with that  
15 property so I am in favor of waiting to do the poll and not rushing into it.

16

17 Councillor Small said we've had a follow up Neighborhood Meeting and Officer Hernandez from  
18 the Neighborhood Watch Program attended to speak with the residents.

19

20 I would like to congratulate the Dona Ana Action for Youth on kicking off several programs in the  
21 Valley Vista neighborhood.

22

23 We have been having on-going meetings at the Benavidez Center and there is one scheduled for  
24 Thursday but the Benavidez Center won't be available so I will be sending out an update on the new  
25 location once we find it.

26

27 I would like to thank Congressman Teague and others for the Re-Energize America Conference that  
28 happened over the weekend.

29

30 I have exchanged several emails with Mike Johnson regarding the McClure Project and he reminded  
31 me that it was an emergency project for the repair of a water line. I wanted to know if it was possible  
32 to do ADA upgrades while the road was already torn up?

33

34 Mike Johnson, Public Works Director said Utilities will be replacing the entire stretch of asphalt but  
35 McClure doesn't have any curb, gutters or sidewalks so we won't be adding that at this time because  
36 we will have to look at a full rehabilitation project to address those needs to McClure.

37

38 Councillor Connor said I attended the New Mexico Municipal League Board Meeting on Saturday  
39 and Jennifer Bales with the Convention and Visitors Bureau did a great presentation. Las Cruces was  
40 awarded the conference for the Municipal League in 2012 and they are very excited about our new  
41 Convention Center.

42

1 The only thing about the Country Club is that I have made attempts but I haven't spoken with the  
2 Club owners or any current members nor the developer who may or may not acquire this property.  
3 We can speculate and take a poll but we need to find out what they want to do with their property.

4

5 Councillor Silva said I support doing a poll but I do have concerns with the ownership issue, the  
6 daily operation cost issues and the total cost for this property. We have about 750 acres by the Las  
7 Cruces Dam that we could invest that kind of money into it instead.

8

9 I sent out a note regarding the Email Policy; is this an official policy from the City Manager or from  
10 an ordinance? Recently, I had over 200 emails deleted from my box and I was told that it was an  
11 automatic clean up.

12

13 Don Bustamante, IT Director said it is a City Manager Policy which is part of our Computer  
14 Handbook and it was based on the Retention Policy that other municipalities use. We do have some  
15 additional considerations because we retain larger and larger amounts of material which becomes  
16 a problem for us to store and retrieve information from it.

17

18 Terrence Moore, City Manager said this isn't 100% a City Manager's Policy and there is Council's  
19 involvement in offering direction to this effect.

20

21 Esther Martinez, City Clerk said the City adopted to follow the State's Retention Schedule Policy  
22 which has a 30-day retention for emails. I do bring Destruction Resolutions before Council which  
23 includes notification that these records have been authorized for destruction and destroyed as per the  
24 policy.

25

26 Councillor Silva said I think maybe the Council needs to look into this and come up with a policy.  
27 I brought this up before and I was told that if I made a folder and placed emails in there then they  
28 would not be deleted but they were deleted from my folder.

29

30 I would like to know if there has been any progress made regarding the Solar District which was  
31 discussed between the County and the City at our last meeting?

32

33 Terrence Moore said not as of today; we are still working on an update to present at the next Joint  
34 Meeting between Council and the Commission which will take place in mid-July.

35

36 Councillor Silva said I like the new agenda layout but I would like to have information for a contact  
37 person included for each item.

38

39 I attended a Clean Cities Work Shop in Washington, D.C. a few weeks ago; they are a lobbyist group  
40 that charges cities different prices depending on their size and I would like to suggest that we join  
41 this group regarding sustainability and funding within the Obama administration. The difference  
42 between this group and what Richardson does for us is that this group works with the Legislators that

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1 are actually writing the legislation and they provide many other services, like weekly teleconference  
2 calls.

3

4 Mayor Miyagishima said I know if you CC your email address then it should save it that way.

5

6 Regarding the Dam, we have looked into that in the past but there are a few huge differences  
7 between the two projects. The Dam is already City owned even though it's with Federal dollars and  
8 the other one, we don't own it. I still think we need to look into trying to own the Country Club  
9 property.

10

11

12 3. **CITY MANAGER**

13 A. Other Items - Information Only

14

15 None given.

16

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19 **Meeting Adjourned at 6:02 p.m.**