

Regular Meeting
August 2, 2010



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

Regular Meeting

**August 2, 2010
1:00 P.M.**

Council Chambers, City Hall

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
- 18 Councillor Nathan Small, District 4
- 19 Councillor Gill Sorg, District 5
- 20 Councillor Sharon Thomas, District 6

- Robert Garza, Assistant City Manager
- Harry (Pete) Connelly, Interim City Attorney
- Esther Martinez, City Clerk

I. OPENING CEREMONIES

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

28 Presentation of Certificates of Appreciation/Proclamations.

30 Mayor Miyagishima and Laura Loos presented the Pet of the Week.

32 Mayor Miyagishima presented a Distinguished Service Award to Roberto Estrada.

34 Mayor Miyagishima introduced Bud Colligan who is the grandson of Josefa Armijo-Gallagher which was the owner of the Armijo House and he gave a verbal presentation regarding the Armijo House.

37 Mayor Miyagishima recognized Dr. Jose Frias and Jesuscita Reyes of our Sister City, Lerdo, Mexico and presented them with the Key to the City.

40 Mayor Miyagishima presented a Proclamation to the Las Cruces Police Department and to Kay Cavalcante of Target and declared August 3, 2010 as National Night Out.

43 Andy Hume gave an overhead presentation regarding the Outfall Channel Multi-Use Path.

1 Andy Hume gave an overhead presentation regarding the Bicycle Friendly Community Task Force.

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

9

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

11

12 Councillor Silva said I am recusing myself from Item 10 because Moongate contributed to my
13 campaign.

14

15 Councillor Small said the attorney that was working with Moongate contributed to my campaign but
16 I don't feel that is an issue for me and I can move forward with it.

17

18 Councillor Connor said I don't think there is an issue for Councillor Silva and all seven of us should
19 have a vote on that issue.

20

21 Mayor Miyagishima said it is up to the Councillor to decide if they have a conflict or not.

22

23 Councillor Silva said I feel there is a conflict and I won't be voting on that item.

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27 Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council met in
28 a Closed Session at 11:10 a.m. on August 2, 2010. The following members were in attendance:
29 Mayor Miyagishima, Councillor Silva, Councillor Connor (arrived at 11:21 a.m.), Councillor
30 Pedroza, Councillor Small (arrived at 11:25 a.m.), Councillor Sorg, Councillor Thomas (arrived at
31 12:03 p.m.), Assistant City Manager Robert Garza, Public Works Director Mike Johnson, HR
32 Director Andre Moquin, Attorney David Lutz and Interim City Attorney Harry (Pete) Connelly. The
33 meeting adjourned at 12:22 p.m. and only the items stated in the posted notice were discussed which
34 was the threatened or pending litigation in Edward Aragon v. City of Las Cruces.

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38 **III. PUBLIC PARTICIPATION**

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40 Elmo Baca, Member of the Public said I am the Interim Director for Downtown Las Cruces
41 Partnership and I have passed out a letter from our Design Committee to Council regarding the

1 Chinese Pistache tree that is next to the Music Box. We do recommend that it be removed because
2 even though we are removing several of our great trees in this area, we are replacing them with 53
3 other trees which will provide us with more shade.

4

5 Robert Garza, Assistant City Manager said that is a very large tree which is in the middle of the road
6 and we were hoping that we could construct around the tree but that isn't possible so our Public
7 Works Department is trying to find a contractor that would be able to dig up the tree and transplant
8 it in one of our parks.

9

10 Russ Warner, Member of the Public said it will be very difficult to replace Dr. Sutter and he has
11 done an excellent job for the City of Las Cruces.

12

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15 **IV. ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY**
16 **AN ASTERISK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON**
17 **BY ONE MOTION.**

18

19 Mayor Miyagishima said Items 2 and 4 need to be removed from the Consent Agenda for discussion.

20

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23 Councillor Connor Moved to approve the Agenda as Amended and Councillor Thomas Seconded
24 the motion.

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

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33 **V. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA**

34

35 *(1) Resolution No. 11-023: A Resolution Authorizing the City of Las Cruces to Renew
36 Membership With the New Mexico Municipal League for Fiscal Year 2010/2011 and Pay
37 Dues in the Amount of \$60,000.00.

38

39 *(3) Resolution No. 11-025: A Resolution Authorizing the City of Las Cruces to Accept, as the
40 Fiscal Agent for Mesilla Valley Safety Council, a Grant in the Amount of \$27,091 From the
41 New Mexico Department of Transportation, Traffic Safety Bureau to Conduct Community

1 DWI Programs, to Ratify the City Manager's Signature on the Funding Contract and Contract
2 Extension to June 30, 2011 and to Adjust the FY 2011 Budget.

3
4 *(5) Resolution No. 11-027: A Resolution Repealing Sections 203, 206, 207, 406, 409, 411, 419,
5 507, 511, 512, 514, 515, 517, 612, 614, 615, 710, 1002, 1006, 1300 and Enacting Sections
6 203, 206, 207, 406, 409, 411, 419, 507, 511, 512, 514, 515, 517, 612, 614, 615, 710, 1002,
7 1006, 1300 of the Manual of Personnel Policies.

8
9 *(6) Resolution No. 11-028: A Resolution Amending the Agreements Between the City of Las
10 Cruces and La Casa, Inc. And Tierra Del Sol Housing Corporation, Respectively, Related to
11 the City's Neighborhood Stabilization Program (NSP), Specific to Agreement Amounts,
12 Future Program Proceeds, and Other Program Requirements.

13
14 *(7) Resolution No. 11-029: A Resolution Approving the Purchase of the Property at 342 N.
15 Tornillo St., Las Cruces, New Mexico, 88001, for \$19,200.00 Under the City's
16 Neighborhood Stabilization Program (NSP).

17
18 *(8) Resolution No. 11-030: A Resolution Approving a Five-Year Bus Service Agreement
19 Between the City of Las Cruces and New Mexico State University Doña Ana Community
20 College for the Term of August 1, 2010 to May 31, 2015.

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22 *(9) Resolution No. 11-031: A Resolution Approving a Five-Year Bus Service Agreement
23 Between the City of Las Cruces and New Mexico State University for the Term of August
24 1, 2010 to May 31, 2015.

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

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30 *(2) Resolution No. 11-024: A Resolution Authorizing the Records Center of Las Cruces to
31 Accept Funds From the New Mexico Historical Records Advisory Board FY 2011 Preservation
32 Grant in the Amount of \$6,800.00 to Microfilm Selected City Documents, to Ratify the City
33 Manager's Signature on Grant Agreement, and to Adjust the FY 2011 Budget.

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35 Councillor Connor Moved to Adopt Resolution No. 11-024 and Councillor Thomas Seconded the
36 motion.

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40 Councillor Thomas asked where is the match coming from?

41

1 Robert Garza, Assistant City Manager said it is coming from in-kind so it won't be necessary for any
2 type of budgetary adjustment.

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6 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-024 and it was
7 Unanimously APPROVED. 7-0

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11 *(4) Resolution No. 11-026: A Resolution Authorizing the City of Las Cruces Police Department
12 Victims Assistance Unit to Accept a \$30,450 Grant From the State of New Mexico, Crime Victims
13 Reparation Commission, With A Required In-Kind Match of \$7,613 to Ratify the City Manager's
14 Contract Signature and to Adjust the FY 2011 Budget.

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16 Councillor Thomas Moved to Adopt Resolution No. 11-026 and Councillor Small Seconded the
17 motion.

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21 Councillor Thomas said the way this form was filled out is very confusing.

22

23 Robert Garza said we will clarify how to fill out the new form and take care of it during the
24 Executive Team Meeting tomorrow.

25

26 Councillor Sorg said I just want to say that I really like this new form.

27

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30 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-026 and it was
31 Unanimously APPROVED. 7-0

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35 (10) Resolution No. 11-032: A Resolution Authorizing the Condemnation of Moongate Water
36 Company.

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38 Councillor Thomas Moved to Adopt Resolution No. 11-032 and Councillor Small Seconded the
39 motion.

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42

1 Kurt Wihl, Keleher & McLeod gave a verbal presentation and said we have been contracted
2 attorneys for the City of Las Cruces for about four years and I have been very involved with a
3 series of litigations regarding the Moongate Water Company. I think the City should pass this
4 resolution because Moongate Water serves customers primarily in the East Mesa area and some
5 of their customers and within the City limits. They are planning to expand and service more
6 customers that are within the City limits due to the annexations by the City for new subdivisions.
7 The sole source of Moongate's water is the Jornado Water Bolson which is a mine basin and
8 doesn't have any new water going into it. Moongate's plan for expanding its service area will
9 require them to gain additional water out of their current limited supply so in order to sustain the
10 water supply to the East Mesa, it is critical for the City of Las Cruces to authorize this resolution.
11 The specific health and safety issue is concerning the fire flow because it must have adequate
12 pressure and there needs to be enough water to fight a fire which the City can provide for that
13 area. It is necessary to approve this resolution in order for the City to be able to implement its
14 water conservation plans for its customers and more effectively plan for the growth of the City.
15 Another issue is the City and Moongate continue to be involved with lawsuit after lawsuit which
16 are mainly being filed by Moongate suing the City and it costs the City a significant amount of
17 money to defend these cases. This resolution would allow the City to move forward with the
18 condemnation process which is a statutorily restricted process but the formal process would be
19 for the City to obtain a formal appraisal of Moongate's assets that the City seeks to acquire under
20 this condemnation and then use that appraisal to attempt to negotiate an agreement with
21 Moongate to acquire its assets. Moongate can also obtain an appraisal and the two can be
22 compared in negotiations for a fair compensation. This was brought before the Utility Board
23 which agreed that it did need to be brought forward for Council's approval. I strongly suggest
24 that Council approves this resolution for the City and for its residents.

25

26 Councillor Sorg asked how many lawsuits are there currently with Moongate?

27

28 Kurt Wihl said there are six lawsuits that my office is currently involved with but there may be
29 others that Moongate is touching upon.

30

31 Councillor Sorg asked how much is it costing the City to defend these litigations?

32

33 Kurt Wihl said we have been handling cases for the past four years so it has cost the City over \$1
34 million in costs and fees so far, for these litigations.

35

36 Councillor Sorg asked will this resolution effect the people in Talavera?

37

38 Jorge Garcia, Utilities Director said if we are successful in acquiring of the Moongate Company
39 then those customers that are Moongate customers would be part of the acquisition.

40

41 Councillor Sorg asked would the Moongate customers in the rural areas with livestock see any
42 differences with their service, regarding the watering of their livestock and fields?

1

2 Jorge Garcia said no.

3

4 Councillor Sorg said I want us to reassure the Moongate customers that the City's service will be
5 good and satisfactory for them. Will there be changes to their current rates?

6

7 Jorge Garcia said I did the calculations and their City water rates would be slightly lower than
8 their current Moongate rates.

9

10 Councillor Thomas said I received some inquires and one of them is asking if the Moongate
11 customers will be hooked up to a different water supply?

12

13 Jorge Garcia said the idea is to try to limit the use of the basin resource and try to save it for
14 future use.

15

16 Councillor Thomas said another inquiry was regarding unhealthy levels of contaminates in the
17 City's water supply.

18

19 Jorge Garcia said they are referring to two wells in the Griggs area that were infected but those
20 wells have not been in our water supply for a very long time. Our water is 100% safe and meets
21 all of the standards.

22

23 Katherine Brenner, Member of the Public said I live in the Talavera area and our water bills
24 range from \$7 to \$9 a month and the quality of the water is excellent. I do come into town and I
25 drink the water here and there is a huge difference between the taste of my water and the City's
26 water. We haven't had any problems with Moongate and we are very satisfied with their service.
27 I would like to ask Council to set this resolution aside and give everyone the opportunity to
28 consider the benefits, if there is any, of being on the City's service.

29

30 Cinda Sovaskas, Member of the Public said I live off Baylor Canyon Road and when we first
31 moved there, about twenty five years ago, we asked the City for service and they weren't
32 interested in us. We had a co-op that drilled a well for that area but miners blasted out there and
33 we ended up turning it over to Moongate which gave us water service. Our current Moongate
34 water has an excellent taste and I'm very happy with their service. I have concerns with the
35 City's rates because I was told that if you use more than the average household then you have
36 higher rates and people in our area have livestock and irrigation needs which would cause a
37 higher usage rate.

38

39 Mayor Miyagishima said twenty five years ago, it's not that the City wasn't interested; we didn't
40 have any water lines to that area and it was within the County limits.

41

1 Carolyn Medina, Member of the Public said I have had service with Moongate since 1982 and
2 our water has never been contaminated. I am very satisfied with their service.

3

4 Joe Harenick, Member of the Public said I live in the Talavera area and I would like to see you
5 take the \$10,000 a week that you are spending on your attorneys and put it into a study so you
6 can do a comparative analysis on the quality of water, numbers on gallons, size of the water table
7 and the rate of the flow.

8

9 Russ Warner, Member of the Public said six years ago, I chaired the City Infrastructure Ad Hoc
10 Committee and our job was to figure out where we were and where we were going. I had
11 concerns at that time regarding the consequences for us not coming up with some type of
12 territorial agreement with Moongate. I think you have to push forward and do what you are trying
13 to do here.

14

15 Allen Cadell, Member of the Public said I am a small business owner and it sounds like
16 Moongate is just protecting their right to grow and we're trying to stop them. I think we should
17 try to work with them and offer to help supply them with water. I use to have City water and then
18 I bought another house which had Moongate water and our monthly water bill with them was
19 only \$16 a month and our bill with the City was always over \$60 a month.

20

21 Councillor Connor asked how many years have we been dealing with the Moongate issue?

22

23 Jorge Garcia said I can recall issues with Moongate water rights as far back as twenty years ago.

24

25 Douglas Hoffman, Member of the Public said I am the President of the Talavera Community
26 Association and we are concerned with this move by the City because of the quality of the City's
27 water and we would have to get services but we wouldn't have any say with it. I read an article
28 that stated the City water was full of contaminates.

29

30 Jorge Garcia said regarding that article, we've had public meetings to inform the public of the
31 data for our water supply and no one ever showed up. The contaminates were from the two
32 infected wells which have not been in our water supply for several years.

33

34 Sheila Johnson, Member of the Public said I live outside the City limits and I have watched the
35 City taking over property for over twenty years. We don't trust you and we don't want to be part
36 of the City because we're afraid that if you take Moongate then you will take us. I also think
37 there is a quality issue with your water because my kids get sick every time they drink it.

38

39 Gil Jones, Former City Councillor said it is very important to preserve the East Mesa but there
40 are issues with infrastructure and public awareness. The City will be stuck with absorbent cost
41 for refurbishing Moongate's water system if you don't address the acquisition of Moongate. We
42 have spent about \$20 million on trying to bring infrastructures up to standards in East Mesa area

1 and one day, the City will be saddled in covering the cost to rebuild the failing Moongate system
2 infrastructure. As a Councillor, I did have many meetings with Moongate and the one thing we
3 did agree on was that having territories would never work because it would just postpone the
4 lawsuits. If you fail to move forward with the acquisition of Moongate Water then you will be
5 obligating future Councils with the burden of the cost to deal with Moongate's failed systems.

6

7 Paul Lindsey, Member of the Public said I am on Moongate water and I'm completely satisfied
8 with them. There would be a change in our cost because there would be improvements done and
9 I'm sure you'll try to cover those costs through our rates.

10

11 Klaus Wittern, Member of the Public said I agree with Gil Jones and you shouldn't wait to
12 address this issue but I don't think that eminent domain is the answer. I would suggest that you
13 table this item for 180 days to give you time to engage in an enlightened program to give the
14 public answers to all of their unknowns.

15

16 Jim Harbison, Member of the Public said I want to caution the Council to be careful with what
17 you ask for. There are numerous problems in the East Mesa with infrastructure issues and taking
18 on Moongate Water will present another significant issue. It states in the 2040 Plan that the City
19 will not offer any services like water, sewer and electricity to areas outside the City limits which
20 is the very thing you are discussing today and it is a direct conflict with the 2040 Plan.

21

22 Jerry Kindle, Member of the Public said I'm new to the area and I don't know if this is a situation
23 where the seller doesn't want to sell or if the price isn't acceptable. I am opposed to this until I
24 know what is the motivation for this action.

25

26 Commissioner Krahlung said I appreciate that you are trying to be proactive but from what I hear
27 today, there are issues with trust. There are concerns that their water isn't being replenished at the
28 same rate it is being used so something does need to be done but I'm sure that eminent domain is
29 the right thing to do because there are so many unanswered questions.

30

31 Councillor Connor said there was mention of the cost for improving the infrastructure and I just
32 want to mention that we do have enterprise funds that can be used as revenue for bonding for
33 doing rehab projects. This process will take time to get to a settlement and it's not a taking of
34 property if the two can agree on what the rules will be or what will the price be or where will the
35 territories be; there are many unanswered questions to the solution but this will put the process
36 into motion. There are properties in the East Mesa that are currently zoned for commercial but
37 since they are on Moongate Water, there are issues with the water flow for fires; so, they can't
38 use their property because their insurance rates are going to be sky high. This resolution is a
39 negotiating tool that will open the door for everyone to sit at the table. We will continue to have
40 public meetings and keep the public informed about what it going on with this issue.

41

1 Councillor Sorg said this is going to be a very open process and it doesn't end with our vote
2 today, it is going to be going on for a long time.

3

4 Councillor Pedroza said eminent domain is scary but it is there for a reason and that reason is for
5 the public good. There will be public meetings during this process and I urge the public to attend
6 them.

7

8 Councillor Thomas said this has gone on for a very long time and we have to address it because
9 that water source is being depleted without being replenished.

10

11 Councillor Small said we are all in this together and we need to work together. There needs to
12 continue to be transparency and a base line of information needs to be available for everyone to
13 share. The fact is that the bolson is being depleted and Moongate continues to make plans for
14 expansion in that area without purposing ways to feed that expansion. I think this resolution will
15 help us move forward with a solution to this issue.

16

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19 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-032 and it was
20 APPROVED. 6-0 Councillor Silva was Absent.

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24 (11) Resolution No. 11-033: A Resolution Authorizing the City of Las Cruces to Apply for
25 the U.S. Department of Housing and Urban Development (HUD) Communities Challenge
26 Planning Grant as it Relates to the Development of a Corridor Plan for El Paseo Road,
27 Modification to the Zoning and Other Development Codes to Promote Affordable
28 Housing and Transit-Oriented Development, and the Creation of an Affordable Housing
29 Land Bank or Funding Thereto. The Resolution Authorizes the City Manager to Sign the
30 Necessary Forms for the Application's Submission and Commits a Minimum of 20%
31 Match to the Grant Through In-Kind or Cash Contributions.

32

33 Councillor Connor Moved to Adopt Resolution No. 11-033 and Councillor Thomas Seconded
34 the motion.

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38 David Dollahon, Neighborhood Services Administrator gave an overhead presentation and said
39 the eligible activities for the HUD Community Challenge Planning Grant are master plans that
40 promote affordable housing, local, corridor, and district plans that promote livability and
41 sustainability, revisions to development codes that remove barriers and promote sustainability,
42 revisions to building codes for energy efficient rehabilitation, planning, establishing, and

1 maintaining acquisition funds and/or land banks for development of affordable housing and
2 strategies for creating and preserving affordable housing within mixed-use, mixed income
3 communities or along existing and future transit routes and bring affordable housing where
4 limited now or close to suburban job clusters. The City's proposal, if approved and awarded
5 would include the El Paseo Corridor Plan and affordable housing actions. The grant amount is
6 for \$1 million which must be used over a three year period and requires a minimum 20% match.
7

8 Councillor Thomas said I like that this would bring together things that we are currently working
9 on. These are new funds that are coming from the government and it is a great opportunity for us.
10

11 Councillor Small said I am comfortable with moving forward with this application.
12

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14

15 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-033 and it was
16 Unanimously APPROVED. 7-0
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20 (12) Resolution No. 11-034: A Resolution Approving the Purchase of the Property at 1734
21 Seldon Ave., Las Cruces, New Mexico, 88001, for \$128,500 Under the City's
22 Neighborhood Stabilization Program (NSP).
23

24 Councillor Connor Moved to Adopt Resolution No. 11-034 and Councillor Thomas Seconded
25 the motion.
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29 David Dollahon, Neighborhood Services Administrator gave an overhead presentation and said
30 we were still in negotiations with the property owner at the time this resolution was done so we
31 will need to make an amendment to the amount for this property. This house will be provided to
32 Tierra del Sol and it has been remodelled by the current owner but it will need to be weatherized.
33 The original purchasing price was \$128,500 but the appraisal came in as \$125,100 so the City
34 revised the offer to that amount which is now the new purchasing price. We have given Council
35 the revised resolution that includes the correct purchasing amount.
36

37 Councillor Silva asked when will staff be providing us with a list of the homes that were
38 purchased with these funds?
39

40 David Dollahon said there was a memo included in the packet and there was another memo dated
41 July 26th that was sent to you as well, that outlined all of the other properties.
42

1 Councillor Pedroza said I think this is a wonderful process and we should move forward with it.

2

3 David Dollahon said there needs to be additional items added to Item A which are to clarify the
4 purchasing price of \$125,100 and some conditions listed for the closing of the property.

5

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8 Councillor Connor Moved to Amend Resolution No. 11-034 to accept the revised resolution with
9 the corrected title and add the additional items to Item A and Councillor Pedroza Seconded the
10 motion.

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14 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 11-034 accept
15 the revised resolution with the corrected title and add the additional items to Item A and it was
16 Unanimously APPROVED. 7-0

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20 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-034 as
21 Amended and it was Unanimously APPROVED. 7-0

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25 (13) Council Bill No. 11-003; Ordinance No. 2583: An Ordinance Amending Section 39-23
26 (D) Grandfathering and Section 39-24 Variances of the Outdoor Lighting Ordinance,
27 Chapter 39 of the Las Cruces Municipal Code. The Amendments Adjust the Date for
28 Compliance with the Ordinance to August 7, 2012 and Clarify that Variances to the
29 Outdoor Lighting Ordinance are Heard by the Planning and Zoning Commission in Lieu
30 of the Board of Adjustment Which was Abolished in 2006. Submitted by the City of Las
31 Cruces.

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33 Councillor Connor Moved to Adopt Council Bill No. 11-003; Ordinance No. 2583 and

34 Councillor Thomas Seconded the motion.

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38 Robert Kyle, Building Official gave an overhead presentation and said this is for two
39 amendments to our current Lighting Ordinance which the first one is for Section 39-23 (D) to
40 extend the compliance requirements for two years and the second one is for Section 39-24 to
41 clarify the appropriate body and process for consideration of variances to Chapter 39.

42

1 Councillor Thomas said I agree with extending the deadline for compliance but my concern is
2 that it has already been ten years and we still have people who aren't in compliance.

3

4 Councillor Silva asked how are we going to keep track of homeowners that have already paid for
5 flood lights that look like street lights and are grand-fathered in?

6

7 Councillor Thomas said I don't think those are grand-fathered in.

8

9 Mayor Miyagishima said I think those are done through El Paso Electric.

10

11 Robert Kyle said we have had discussions with El Paso Electric regarding that issue and they
12 have assured us that when they install those lights for customers that they are in compliance with
13 our ordinance.

14

15 Oscar Andrade, Member of the Public said I'm the President of Pic Quik stores and we have two
16 new projects coming into Las Cruces; I want to know if the fixtures that we have been using over
17 the past ten years are considered in compliance?

18

19 Robert Kyle said we've had several discussions regarding that situation and our agreement is that
20 the lighting under the canopies, as long as they are shielded, even though they don't specifically
21 meet the definition of a full cut off light function, as long as he increased the lip of the canopy so
22 the light doesn't go above that level and is directed downward then it's acceptable.

23

24 Mayor Miyagishima said I like that our Community Development Department is working with
25 businesses on these types of situations.

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29 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 11-003;
30 Ordinance No. 2583 and it was Unanimously APPROVED. 7-0

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34 **VII. BOARD APPOINTMENTS**

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36 Councillor Pedroza appointed Greg Walke to the Historic Preservation Ad Hoc Committee.

37

38 Councillor Silva appointed William Stowe to the Planning and Zoning Commission.

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

1
2 (14) Council Bill No. 11-005; Ordinance No. 2585: An Ordinance Approving a Zone Change
3 From C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for Three
4 (3) Distinct Properties Located at 304, 308, and 320 Wyatt Drive and 1160 El Paseo
5 Drive. The Properties have a Combined Area of 9.660 +/- Acres All Being Utilized as a
6 Shopping Center. The Zone Change Request Will Bring the Properties Into Zoning
7 Compliance, Based on Each Property Exceeding the One (1) Acre Maximum for
8 Commercial Properties Within the C-2 (Commercial Medium Intensity) Zoning District.
9 Submitted by BRG Engineering for El Paseo Las Cruces Pros Re, LLC (Z2766).

10
11 Mayor Miyagishima and Council agreed to bring this item back.

12
13 (15) Council Bill No. 11-006; Ordinance No. 2586: An Ordinance Approving a Zone Change
14 From C-3 (Commercial High Intensity) to R-4 (Multi-Dwelling High Density & Limited
15 Retail and Office) for 2.787 +/- Acres on Land Located South of Valverde Loop on Mars
16 Avenue, West of Del Rey Boulevard. The Purpose of the Zone Change is to Allow a
17 Proposed Assisted-Living Development Known as the Beehive Village of Las Cruces.
18 Submitted by Paul Miller, Property Owner. (Case Z2800).

19
20 Mayor Miyagishima and Council agreed to bring this item back.

21
22 (16) Council Bill No. 11-007; Ordinance No. 2587: An Ordinance Authorizing the Issuance
23 and Sale of the City of Las Cruces, New Mexico Municipal Gross Receipts Tax
24 Refunding and Improvement Revenue Bonds (Streets Projects), Series 2010A, in an
25 Aggregate Principal Amount of \$ _____ for the Purpose of Defraying the Cost
26 of Refunding the Outstanding City of Las Cruces New Mexico Municipal Gross Receipts
27 Tax Revenue Bonds (Streets Projects), Series 1999A, Prepaying the Outstanding New
28 Mexico Finance Authority Street Project Loans and Reconstructing, Resurfacing,
29 Repairing and Performing Major Maintenance on City Streets, Including Performing
30 Related Repairs to Integral Curbs, Sidewalks, Drainage and Utility Systems Necessitated
31 by the Street Modifications; Providing that the 2010A Bonds will be Payable from the
32 Revenues Derived from the First One Quarter of One Percent (1/4%) Increment of
33 Municipal Gross Receipts Tax Distributed to the City; and Authorizing the Issuance and
34 Sale of the City of Las Cruces, New Mexico Municipal Gross Receipts Tax Refunding
35 Revenue Bonds (Flood Control Projects), Series 2010B, in an Aggregate Principal
36 Amount of \$ _____ for the Purpose of Defraying the Cost of Refunding the
37 Outstanding City of Las Cruces New Mexico Municipal Gross Receipts Tax Revenue
38 Bonds (Flood Control Projects), Series 1999B, and Prepaying the Outstanding New
39 Mexico Finance Authority Flood Control Loans; Providing that the 2010B Bonds will be
40 Payable from the Revenues Derived from the Fifth One Quarter of One Percent (1/4%)
41 Increment of Municipal Gross Receipts Tax Distributed to the City; Establishing the
42 Maturity Dates, Interest Rates, Redemption Provisions and Other Details of the Bonds;

1 Approving the Execution of Certain Documents Relating to the Bonds; Ratifying Action
2 Previously Taken in Connection Therewith; and Repealing All Action in Conflict
3 Herewith.

4
5 Mayor Miyagishima and Council agreed to bring this item back.

6
7 (17) Council Bill No. 11-008; Ordinance No. 2588: An Ordinance Authorizing the Issuance
8 and Sale of the City of Las Cruces, New Mexico State Shared Gross Receipts Tax
9 Refunding Revenue Bonds, Series 2010, in an Aggregate Principal Amount of
10 \$_____ for the Purposes of Refunding, Refinancing, Prepaying and Discharging
11 the City's Outstanding New Mexico Finance Authority Convention Center Loan;
12 Providing that the Refunding Bonds will be Payable and Collectible from the Pledged
13 Convention Center Fee Revenues, the Pledged Lodgers' Tax Revenues and the Pledged
14 State Shared Gross Receipts Tax Revenues Distributed to the City; Authorizing the
15 Execution and Delivery of a Bond Purchase Agreement in Connection with the Sale of
16 the Refunding Bonds; Approving Certain Other Agreements and Documents in
17 Connection Therewith; Prescribing Other Details Concerning the Refunding Bonds and
18 the Funds Appertaining Thereto; Ratifying Action Previously Taken in Connection
19 Therewith; and Repealing All Action in Conflict Herewith.

20
21 Mayor Miyagishima and Council agreed to bring this item back.

22
23 -----

24
25 **IX. STATUS/UPDATES ON CURRENT PROJECT LIST**

- 26
27 1. **Strategic Plan** - *(Implementation documents being prepared, finalizing plan for council*
28 *review and consideration.)*
- 29 2. **Las Cruces Convention Center** – *(Building exterior near complete; most construction is*
30 *interior with limited site work at this time. Parking lot grading and other site work to*
31 *begin later in July. Construction completion remains on schedule at this time with the*
32 *facility being operational by an anticipated December, 2010 time frame.)*
- 33 3. **Downtown Main Street Construction** - *(Construction begin with the installation of*
34 *safety fencing on July 1st. Existing trees, plants, and bricks on Main Street have been*
35 *removed with some of the salvageable items being transported to the City yard between*
36 *Motel Blvd and Westgate. Lane and road closures will be in effect at the north end of the*
37 *project and Las Cruces Avenue for road work at each location.)*
- 38 4. **Impact Fees** –*(The project is on-going and is in Phase II - Development of the Impact*
39 *Fee Capital Improvements Plan (IFCIP). City Council solidified their direction to staff to*
40 *proceed with exempting the "In-fill" area of the city; keeping the Public Safety fee as a*
41 *city-wide fee; and, to consider excluding or showing the West Mesa Industrial Park*
42 *separately by approving the change order to the contract with James Duncan and*

- 1 *Associates on May 17, 2010. Staff will work with the consultant to modify the LUA and*
 2 *the draft IFCIP and to bring them forward for review and approval through the*
 3 *appropriate process.)*
- 4 5. **Vision 2040** – *(Staff has taken over the Vision 2040 project from the consultant and is*
 5 *moving ahead with the action plan reviewed by the elected officials on April 15, 2010.*
 6 *Staff is preparing a vision statement for endorsement in May and a working draft of the*
 7 *regional vision document using the Table of Contents presented. Staff is restructuring the*
 8 *Advisory Committee to add stakeholders and define responsibilities, with the next*
 9 *meeting tentatively scheduled in the first part of June. The Advisory Committee will*
 10 *review updated versions of the working draft in sections over the next several months*
 11 *with regular updates to the elected officials. Information and draft documents on Vision*
 12 *2040 are available online at <http://vision2040.nmsu.edu>.)*
- 13 6. **Regional Recreational & Aquatic Center** – *(Most interior work is complete with tube*
 14 *slide installed and water in the pool. Clean up work and minor details remain to be*
 15 *completed. Most work devoted to site completion. Parking lot constructed, landscaping in*
 16 *process among other amenities. Anticipation of a Certificate of Occupancy during the*
 17 *month of July with the opening of the facility towards the end of summer.)*
- 18 7. **Las Cruces Intermodal Facility** – *(Contract award complete and finalizing paperwork,*
 19 *primarily related to DBE in order begin the project.)*
- 20 8. **Bicycle Facilities Planning** – *(Staff is preparing the application for Bicycle Friendly*
 21 *Community with the assistance from the Bicycle Friendly Community Task Force. Staff is*
 22 *working with the Engineering Work Group of the Task Force to identify roadways where*
 23 *bicycle facilities can be added as resurfacing projects are completed. The road diet on*
 24 *Solano will be continued from Missouri to University during late summer/early fall.*
 25 *There are 4 new League Cycling Instructors in the Las Cruces area, bringing the total*
 26 *number of instructors to 13. The new instructors include three City employees: Caeri*
 27 *Thomas, Naoma Staley, and Andy Hume.)*
- 28 9. **EPA Smart Growth Implementation Assistance Program (SGIA)** – *(This project,*
 29 *known on our application for the EPA Smart Growth Implementation Assistance (SGIA)*
 30 *program as Making Redevelopment Work for the Neighbors: The El Paseo Project, now*
 31 *has an identity more suitable for its purpose which is to engage people in planning their*
 32 *community. Welcome: **Picturing El Paseo—Share Your Vision for the Corridor.** A ‘soft’*
 33 *outreach campaign has begun in the area along and within walking distance of El Paseo*
 34 *Road between Downtown and the University District. The team is promoting events like*
 35 *Coffee Hour at popular spots such as International Delights, Mountain View Coop,*
 36 *Grandy’s and Si Bistro when people can stop and talk with staff. The City and partners*
 37 *are producing the **Green Infrastructure Conference** on August 26th, a 3-day **Road Safety***
 38 ***Audit** September 30th through October 2nd, and a **Visioning Charrette** November 18-20.*
 39 *The EPA staff team and federal partners from the Departments of Transportation (DOT)*
 40 *and Housing and Urban Development (HUD) are collaborating with City staff from*
 41 *multiple departments, policy makers, residents and businesses. Las Cruces staff is*
 42 *continuously reaching out to a diverse set of public and stakeholders in the El Paseo*

- 1 *area, and is available to discuss this project with any interested parties or individuals.*
 2 *Regular conference calls occur on Tuesday from 1:30-2:30 PM in Room 1158, City Hall,*
 3 *700 Main Street.)*
- 4 10. **New City Web Site** – *(The new web site is scheduled to go live in the July-August time*
 5 *frame. Content from the current web site is being migrated to the new site. Some*
 6 *significant re-work of content is required to provide a unified design and user interface*
 7 *functionality, and to upgrade existing content to ADA and Section 508 standards.*
 8 *Departmental stakeholders (who will be responsible for authoring content) have been*
 9 *involved in a number of meetings to provide inputs on the new web site as well. The new*
 10 *site will support greater citizen engagement by providing citizens the ability to receive*
 11 *information via RSS feeds, newsletters, and alerts, as well as providing new content and*
 12 *capabilities. The next phase in the project will involve training departmental authors in*
 13 *the use of the content management system editor, authoring methods, and pertinent*
 14 *standards, guidelines, and laws.)*
- 15 11. **Downtown Revitalization Activities** - *(Construction on La Placita has started and is*
 16 *expected to take 9 months. City staff is in the process of forming a Downtown*
 17 *Revitalization Plan Ad Hoc Committee.)*
- 18 12. **Grants/ARRA Status** - *(Matrix.)*

19

20 Councillor Connor asked have we obtained the Certificate of Occupancy for the Aquatics Center?
 21

22 Lisa Murphy, Airport Manager said we've been held up by the regulatory inspections but we do
 23 expect to receive it sometime this month.

24
 25
 26

27 **X. GENERAL DISCUSSION**

28
 29
 30

1. **MAYOR**

31 Mayor Miyagishima said I spoke with the General Manager of Ruidoso Downs and she told me that
 32 they have been losing money for the past year and they are trying to get some kind of a tax break
 33 from the legislature but it didn't look like they were going to get it so they're asking the residents
 34 to agree to tax themselves to help offset the amount they are losing. If that doesn't go through then
 35 they will have to move Ruidoso Downs and they are putting us at the top of the list; staff has met
 36 with them to show them some of our areas and they would more than likely move somewhere in our
 37 West Mesa Industrial Park area.

38
 39
 40
 41

2. **CITY COUNCIL**

1 Councillor Thomas said regarding the discussion at our last meeting, my headset went out which is
2 why I wasn't able to continue with the discussion but I just want to say, regarding the PUD, I know
3 we have to operate under the way the current PUD is written but I think we need to revisit it and
4 make it clear what changes we want and what we are willing to give which should not include
5 anything that is required.

6

7 I have been attending meetings regarding Spaceport America and it was brought up that we will be
8 getting businesses here that we've never had before so we need to start planning for them and figure
9 out where they will be located.

10

11 I have brought up "Beyond the Bottle" before and I wanted to know if there is a consensus from
12 Council to look into this program?

13

14 Council gave consensus.

15

16 Councillor Sorg said I toured the Spaceport last Friday and I got the sales pitch from their PR Man.
17 He gave me an example of what we might want to consider which is to plan for tourists to see the
18 rockets being launched and be able to have access points for emergency vehicles in case there is an
19 emergency.

20

21 Regarding "Beyond the Bottle," there is a place where the City Utilities bottles our water and I would
22 like to try to get their water into City Hall instead of buying bottled water from someone else.

23

24 Councillor Small said I saw a private vehicle on 4th Street that had been tagged with graffiti and there
25 has been tagging done at the Benavidez Center. I think this makes people feel unsafe in their
26 neighborhood and I think it might be good to have mural locations, like the underside of the
27 interstate, where people can do this as a legitimate outlet.

28

29 Mayor Miyagishima said I would suggest that we look into having some kind of camera system for
30 City facilities that are having these types of issues.

31

32 Don Bustamante, IT Director said we do have that capability and it is already being done in some
33 places.

34

35 Councillor Pedroza said Chief Williams is working with myself and Councillor Thomas with
36 community policing and we are trying to bring Police Officers closer to the communities by planning
37 a kind of meet and greet type get-together.

38

39 I want to mention that the Human Services Department is conducting a food drive to help with the
40 hunger that is happening in Columbus, New Mexico.

41

1 I want to remind everyone that they are welcome to join me in walking around Young Park at 7:00
2 a.m., Monday thru Friday.

3

4 Councillor Connor said the grand opening for the Spaceport is scheduled for October 22nd and people
5 will need to be bused in because you aren't able to drive in on your own.

6

7 There are issues with the ponding area on Farney Road, there is a strong odor and there are a lot of
8 mosquitos due to the standing water.

9

10 We will be meeting with some of the residents on Solano regarding their flooding issues.

11

12 I found out that the owner of the trailer park on McClure doesn't even have a business license and
13 consideration needs to be given on the way people are living in some of these trailer parks.

14

15 Councillor Silva said I want to mention that I took Councillor Connor's comments last week,
16 seriously and I didn't even bring a computer today. I feel there is a lot of merit to her draft resolution
17 and I think it emphasizes our email policy. I would like for us to act aggressively and I think we need
18 to move with technology. I think the Mayor needs to ask us if we have received any kind of
19 electronic transmission during a vote so it can be documented.

20

21 At the corner of Picacho and Melendres, there is a crosswalk north of LAABS Pool and I have been
22 asked if it would be possible for us to put a light there because it is a busy street.

23

24 Regarding our Lighting Ordinance, I think we need to check into how we can deal with personal
25 home security lights.

26

27

28 **3. CITY MANAGER**

29 **A. Other Items - Information Only.**

30

31 Robert Garza said the National Night Out Event is happening tomorrow night at the Downtown
32 and it is a great opportunity for a meet and greet get-together with our Law Enforcement.

33

34 There is going to be a meeting here on Wednesday evening regarding the impacts to the
35 Downtown business owners.

36

37

38

39 **Meeting Adjourned at 6:12 p.m.**