City Council
of the
City of Las Cruces

Regular Meeting

January 3, 2011
1:00 P.M.
Council Chambers, City Hall

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

I. OPENING CEREMONIES

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

Darnicia Holt sang the National Anthem.

Presentation of Certificates of Appreciation/Proclamations.

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

Mayor Miyagishima and Councillor Sorg recognized Mayfield High School Varsity Football Team for being the 2010 Class 5A State Champions.

II. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27(E)(2).

At the opening of each council meeting, the chairperson shall ask if any member of the city council, city manager, or any member of the city staff has any known conflict of interest with any item on the agenda.

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

None given.

III. PUBLIC PARTICIPATION

Russ Warner, Member of the Public said I want to congratulate Robert Garza on becoming City Manager. I think you need to consider our budget in considering the Assistant City Manager position. I'm not saying that position isn't important but I think all the departments could handle it without having an Assistant City Manager.

In response to the people who are calling into Sound Off regarding the ordinances for the red light cameras and driving while texting or talking on your cell phone; it is stupid to be talking or texting on your cell phone while you are driving and that is why we need to have these ordinances. They help to protect the law-bidding citizens of this community.

Ryan Dailey, Member of the Public said I hope everyone had a good holiday season and I have been truly humbled to speak before this Council for the past year. This is an election year and there will be a lot of changes but I want to thank you for making this my second home.

Ken Groggle, Member of the Public said I'm representing the PRS of New Mexico and I would like to propose the adoption of a Parking Lot Program. I have already submitted documents to the Mayor and staff regarding the Downtown Mall parking area.

Mayor Miyagishima said basically, this gentleman is proposing that his non-profit organization be able to keep the Downtown area clean at no charge and in return we could have some kind of a sign that states this parking lot is being maintained by a certain organization. We could bring forward a resolution in the next few weeks if this is something Council wants to do.

Councillor Silva said you are going to maintain the parking lots and not build them; correct?

Ken Groggle said that is correct.

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

Mayor Miyagishima said Items 5, 7, 12, 13, 16, 17 and 22 need to be removed from the Consent Agenda for discussion.

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

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

V. CITY COUNCIL MINUTES

*(1) Regular Meeting of November 15, 2010
*(2) Regular Meeting of December 6, 2010
*(3) Special Meeting of December 13, 2010

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

*(4) Resolution No. 11-141: A Resolution Authorizing the City of Las Cruces to Continue an Agreement With the South Central Council of Governments for Fiscal Year 2010-2011 and to Provide an Annual Membership Fee of $11,140.00.

*(6) Resolution No. 11-143: A Resolution Authorizing the City of Las Cruces, on Behalf of the Fire Department, to Accept an Agreement For Fire Department Services With the New Mexico Spaceport Authority, to Accept Funding for Provisions of Firefighter Personnel and Apparatus, to Ratify the Acceptance of the Agreement and Funding by the City Manager, and to Adjust the City of Las Cruces FY 2011 Budget for the Amount of $2,039.43 With No Match Required.

*(8) Resolution No. 11-145: A Resolution Establishing a Policy for the Payment of Aircraft Rescue and Firefighting / Police Services Rendered by the Las Cruces Fire Department and the Las Cruces Police Department During the Spring Training Sessions Conducted by the United States Navy at the Las Cruces International Airport and to Adjust the 2010/11 Budget.

*(9) Resolution No. 11-146: A Resolution That Will Allow the City of Las Cruces Fire Department (City) to Accept Various Emergency Preparedness Equipment Valued at $149,485.12 Pursuant to a Grant Funded by the United States Department of Homeland Security, Office of State and Local Government Coordination and Preparedness Through the New Mexico Department of Public Safety, Office of Emergency Management and the Dona Ana County / City of Las Cruces Office of Emergency Management for FY 2007 Grant.

*(10) Resolution No. 11-147: A Resolution Approving a Lease Agreement Between the City of Las Cruces and NOPS on Wheels for the Exclusive Use of One Parking Stall in the City Parking Area Located at City Hall, 700 North Main Street in Downtown Las Cruces.

*(11) Resolution No. 11-148: A Resolution Approving Amendment #1 to the City of Las Cruces 2010 Action Plan for the Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Programs From the U.S. Department of Housing and Urban Development (HUD). The Resolution Further Authorizes an Adjustment to the City's Adopted FY2011 Budget for Various Activities Associated With the CDBG and Home Programs, Including Amendment #1.

*(14) Resolution No. 11-151: A Resolution Approving the Transit Holiday Schedule for the 2011 Calendar Year.

*(15) Resolution No. 11-152: A Resolution Authorizing the City of Las Cruces to Accept a Nutrition Service Incentive Program (NSIP) Contract Amendment for Cash-in-Lieu of Commodities From the North Central New Mexico Economic Development District Non-Metro Area Agency of Aging for Fiscal Year 2010-2011 in the Amount of $9,400 and to Adjust the City Budget.

*(18) Resolution No. 10-11-404: A Resolution Awarding a Contract for the Transit Vehicle Wash Services Price Agreement to the Firm of Steve Ellison's Splish Splash of Las Cruces, NM in the Estimated Annual Amount of $60,554 Plus $4,580 GRT for a Total Annual Amount of $65,134.

*(19) Resolution No. 10-11-421A: A Resolution Awarding an Engineering Services Contract for the Purchase of Pavement Maintenance Software and Associated Data Collection from Terracon Consulting, Inc. of Las Cruces, New Mexico in the Amount of $222,228.30 Plus $16,806.02 for New Mexico Gross Receipts Tax. The City Manager Is Authorized to Approve Change Orders in an Amount Not to Exceed $11,111.42 for a Total Project Authorization Amount of $250,145.74.

*(20) Resolution No. 10-11-439: A Resolution Awarding the Bid for the Calais Drainage Channel Crossing at Roadrunner Parkway Project to G. Sandoval Construction, Inc. Of Las Cruces, New Mexico for the Amount of $325,673.00, Plus $24,629.02 for New Mexico Gross

Receipt Tax. The City Manager is Authorized to Approve Change Orders in an Amount Not to Exceed $16,283.65, for a Total Project Authorization of $366,585.67.

*(21) Resolution No. 10-11-473: A Resolution Authorizing Use of the New Mexico Statewide Price Agreement Number 72-000-00-04019 Awarded to Exerplay, Inc., Cedar Crest, New Mexico, for the Purchase and Installation of Play Equipment at North Las Cruces Park in the Amount of $129,430.75, Plus New Mexico Gross Receipts Tax in the Amount of $9,788.17, Plus Authorizing a Contingency in the Amount of $13,000.00, for a Total Authorization of $152,218.92.

VII. UNFINISHED BUSINESS

(23) Council Bill No. 11-018; Ordinance No. 2598: An Ordinance Amending Las Cruces Municipal Code, Section 27-12-6-17, *Parking Restrictions for Recreational Vehicles*, to Establish a Linear Limit Beyond Which Recreational Vehicles May Not be Parked at the Side of a Residence, to Reduce the Number of Days a Person May Reside in a Recreational Vehicle Parked at a Residence, to Reduce the Number of Days a Recreational Vehicle May be Parked on a Street or Alley; and to Clarify the Authority of Codes Enforcement to Enforce This Ordinance and Section 27-12-6-18, *Occupation of Recreational Vehicle*; and to Make Both Ordinances Consistent With Las Cruces Development Code, Section 38-57, *Mobile Home Parks/Recreational Vehicle Parks.* ***(TABLED from 12-06-10)***

Councillor Connor Moved to Remove Council Bill No. 11-018; Ordinance 2598 from the Table and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Remove Council Bill No. 11-018; Ordinance 2598 from the Table and it was Unanimously APPROVED. 7-0

Mayor Miyagishima said this item has been back and forth several times because we are trying to work with our citizens and our Codes Department.

Councillor Sorg said San Antonio wrestled with this same issue about twenty years ago and they passed an ordinance that seems to be satisfactory to their City and the RV owners.

Mayor Miyagishima said maybe we should have our Legal Department and Council take a look at that ordinance and table this item again.

Councillor Sorg said this is a complicated issue and we need to make sure to address all the issues.

Councillor Connor said I need to make a disclosure; around noon today all of us received an email from Councillor Thomas regarding information for this item and I would like to know if this was a violation of a rolling poll?

Harry (Pete) Connelly, Interim City Attorney said at the present time there isn't any showing of any discussion of the information that has been provided but we are getting close to that fine line. I would caution Council that sending things around could be construed as getting to a rolling poll.

Councillor Thomas said next time I will bring a hard copy to the meeting; I just sent it by email to save paper.

Councillor Connor said I don't know if anyone responded to that email but if they did then that is over the line.

Councillor Thomas said there weren't any responses.

Mayor Miyagishima said I received some information over the holidays and I wanted to forward it to Council for their information only. We will need to give the Clerk a copy of any information that is handed out as well.

Councillor Thomas said I sent three articles regarding RV situations in other places. I agree with tabling this item and letting our Legal Department take a look at all this information. As I understand this ordinance, we are no longer allowing RVs with four wheels to park on the street and no RVs allowed more than three days unless they are loading or unloading.

Mayor Miyagishima said I think we should table this until sometime in May.

Robert Garza, City Manager said if this is tabled then we would recommend that it be tabled indefinitely rather than date specific and that we schedule a Work Session to work through some of these issues before bringing forward another ordinance.

Councillor Thomas said maybe we should also consider having a public meeting.

Robert Garza said we could schedule that as well.

Mayor Miyagishima said this is going to effect our residents and we need to take our time and do it correctly.

Councillor Connor said I'm concerned that if we table this then we won't be able to speak about any existing information.

Robert Garza said tabling it indefinitely would kill it so it would be dead to Council and we would start over and be able to have public meetings.

Councillor Small Moved to Table Council Bill No. 11-018; Ordinance 2598 Indefinitely and Councillor Thomas Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Table Council Bill No. 11-018; Ordinance 2598 Indefinitely and it was APPROVED. 5-2 Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas and Mayor Miyagishima voted Aye. Councillor Silva and Councillor Connor voted Nay.

VIII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

*(5) Resolution No. 11-142: A Resolution Granting a Waiver Requested by Auguie Henry III From the Employee Conflict of Interest Provision in Section 24-377 and the Contemporaneous Employment Provision in Section 24-380 of the City of Las Cruces Municipal Code.

Councillor Small Moved to Adopt Resolution No. 11-142 and Councillor Thomas Seconded the motion.

Councillor Silva said this sounds like we are providing a waiver and initiating a disclosure. I would like staff to state the true benefit of having our Grants Administrator being part of the procurement process and explain the disclosure of Auguie Henry having a brother who is in construction.

Bob Telles, Purchasing Manager said the waiver request for Mr. Henry is for his participation and position. The benefit to the City is that his task is to obtain funding for the City and the entire cycle of the procurement process includes the administration of contracts which involves his participation to make sure that we are meeting the grant requirements and as the Code is currently written, he is prohibited from participating in this process.

Mayor Miyagishima said this has been done in the past with Council's approval. There was a case where an employee was also a business owner and he was granted a waiver to participate in the bidding process with the City so this case is a drop in the bucket in my opinion. Most of the time there is a committee that does the selection process and his brother's business shouldn't be penalized for this situation.

Bob Telles said we are only asking for a waiver to allow Mr. Henry to do his job regarding issues within the procurement process that deal with funding.

Councillor Silva said so, we are just approving his position to be part of the process but we are granting a waiver for him because of his brother's employment.

Bob Telles said that is correct. The Code states that it is unethical for any employee that is involved with a procurement and has family members that might have an interest in that procurement so they are prohibited to participate in that procurement process.

Councillor Pedroza said Mr. Henry isn't in the position of awarding a contract or changing the specification of it so instead of having a general waiver we could have him agree to recuse himself if there are any dealings with his brother's company.

Auguie Henry said that might be possible; however, part of my responsibility is to make sure that the grant funds are in compliance with the grant requirements. I usually don't get involved with the selection of a contract but if my brother's company was selected or is a sub-contractor then the funds for those projects would still come across my desk.

Councillor Pedroza said but you could recuse yourself from the selection process if your brother was a part of it; correct?

Auguie Henry said if that is the wish of the Council.

Mayor Miyagishima said maybe we can have his supervisor sign off on those occasions.

Councillor Pedroza said I'd be okay with that.

Pat Degman, Interim Finance Director said that is the type of internal control that we would like to have for this type of situation.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-142 and it was APPROVED. 5-2 Councillor Silva, Councillor Connor, Councillor Sorg, Councillor Thomas and Mayor Miyagishima voted Aye. Councillor Pedroza and Councillor Small voted Nay.

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*(7) Resolution No. 11-144: A Resolution Authorizing the City of Las Cruces to Apply for the Environmental Protection Agency National Clean Diesel Funding Assistance Program, FY 2011 Cooperative Agreement Grant in an Amount Up to $750,000 With a Possible 50% Match.

Councillor Thomas Moved to Adopt Resolution No. 11-144 and Councillor Connor Seconded the motion.

Councillor Silva asked where are the matching funding going to come from?

Auguie Henry, Grants Administrator said we aren't anticipating a match for this grant. It is listed on here because it is part of the grant application which has two parts and one of the parts that you can apply for has a match but the part we are going to apply for is for 100% and doesn't have a match.

Councillor Silva asked how does this fit in our Sustainability Program?

Auguie Henry gave an overhead presentation and said Tom Schuster has gone over all the numbers with Fleet and currently, 85% of Fleet's budget for all fuels and oils is being spent on unleaded gasoline and ultra-low sulfur diesel fuel. Fleet projects to purchase 851,064 gallons of fuels this fiscal year, for a projected cost of $2,000,000. Fleet has determined that engine idling waste amounts of approximately 68,085 gallons of fuel which cost the City about $160,000 each year. Grant funds would allow Fleet to install state-of-the-art anti-idling systems and exhaust controls on selected medium-duty to heavy-duty diesel trucks in the City's motor pool. The EPA will award 100% of approved grant request if funds are used for Verified Idle Reduction Technologies in conjunction with Verified Exhaust Controls.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-144 and it was Unanimously APPROVED. 7-0

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*(12) Resolution No. 11-149: A Resolution Adopting a New "Community Development Block Grant (CDBG) Public Services Application and Guide," as Recommended by the Health and Human Services Advisory Committee (HHSAC).

Councillor Connor Moved to Adopt Resolution No. 11-149 and Councillor Small Seconded the motion.

Councillor Silva said I just wanted to know what your game plan was for putting this guide together.

David Dollahon, Neighborhood Services Administrator said this is a replacement to an existing guide. We needed a guide as per HUD's direction from an audit that was done about ten years ago which stated that we had to have a process in which we award our Public Service funds that come out of the CDBG Program. We are looking at a two year funding cycle because it is a complicated funding mechanism and it is a complicated grant to implement.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-149 and it was Unanimously APPROVED. 7-0

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*(13) Resolution No. 11-150: A Resolution Authorizing the City of Las Cruces to Accept a Grant Agreement Modification to the Dona Ana County Juvenile Justice Continuum Grant for an Additional $15,700 for Use by the City's Juvenile Citation Program from the State of New Mexico, Children, Youth, and Families Department (CYFD). The Resolution Amends the City's Adopted FY2011 Budget to Reflect This Additional State Funding.

Councillor Connor Moved to Adopt Resolution No. 11-150 and Councillor Sorg Seconded the motion.

Mayor Miyagishima said this was removed so it could include a revised amendment which all of Council should have a copy of the revisement.

David Dollahon, Neighborhood Services Administrator said we received notice from the State that we are going to receive an additional $15,700 from the State's Children Youth and Families Department for the City's operation of the Juvenile Citation Program. It would be use to increase some of our part-time staff's hours for our Juvenile Citation Program which is expanding this year. The State sent us a revised amendment on Thursday which is what we need to substitute for the full contract that was submitted within your packet for this resolution.

Councillor Connor Moved to Amend Resolution No. 11-150 to include the substituted revised amendment for Exhibit A and Councillor Silva Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 11-150 to include the substituted revised amendment for Exhibit A and it was Unanimously APPROVED. 7-0

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-150 as Amended and it was Unanimously APPROVED. 7-0

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*(16) Resolution No. 11-153: A Resolution Approving a Cooperative Agreement Between the City of Las Cruces and the New Mexico Department of Transportation to Provide a 20% City Match (Estimated to be $252,382.82) for the Storm Drain System Improvements as Part of the North Valley Drive Reconstruction Project.

Councillor Connor Moved to Adopt Resolution No. 11-153 and Councillor Sorg Seconded the motion.

Councillor Thomas said we had a long discussion about this topic at the MPO and as I understand it includes Bicycle Facilities but it isn't stated in this resolution.

Mike Johnson, Public Services Administrator said there is going to be a shared lane, it is going to be a five lane section on Valley Drive.

Councillor Thomas said I just wanted to make sure that was the way it was going to be.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-153 and it was Unanimously APPROVED. 7-0

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*(17) Resolution No. 10-11-394: A Resolution Awarding a Contract for the Development of the 2011-2015 Consolidated Plan and Analysis of Impediments to Fair Housing Choice for the

City of Las Cruces, NM, to BBC Research & Consulting of Denver, CO, for the Contract Amount of $99,760 Plus $7,544 for New Mexico Gross Receipts for a Total Project Authorization of $107,304. The Resolution Includes a Budget Adjustment to the City's FY2011 Adopted Budget to Correct Account Balances for CDBG Funds to Pay for This Project.

Councillor Connor Moved to Adopt Resolution No. 10-11-394 and Councillor Thomas Seconded the motion.

Councillor Silva said I pulled this because a constituent had some questions on it but I don't see them in the audience so we can just go forward with it.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-11-394 and it was Unanimously APPROVED. 7-0

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*(22) Council Bill No: 11-019: Ordinance 2599: An Ordinance Approving a Zone Change From UR (Urban Ranch From the 1981 Zoning Code) to REM (Single-Family Residential Estate Mobile) for Two (2) Distinct Properties Located South of Shannon Road and West of Beyer Road. The Subject Properties Consist of Two Lots for a Total 3.00 ± Acres: Lot One Encompasses 2.00 ± Acres and Lot Two Encompasses 1.00 ± Acres. The Proposed Zone Change will Bring the Subject Properties Into Compliance With the 2001 Zoning Code, as Amended. Submitted by Anne Shannon and Bea Wade, Property Owners (Z2816).

Councillor Sorg Moved to Adopt Council Bill No. 11-019; Ordinance 2599 and Councillor Thomas Seconded the motion.

Cheryl Rodriguez, Development Services Administrator said all of you should have received several emails regarding this zone change and I want to make sure you all received them.

Council responded yes.

Cheryl Rodriguez gave an overhead presentation and said this is a zone change for two parcels of land located south of Shannon Road and west of Beyer Road. Lot 1 encompasses approximately two acres and contains a mobile home and has legal access to Shannon Road and Beyer Road via a

private 25-foot road easement. Lot 2 encompasses approximately one acre and has empty animal stables on it. It also has legal access to Shannon Road via a private 25-foot road easement and has direct access to Beyer Road. The property is currently zoned Urban Ranch (UR) and the applicant is requesting a zone change to Single-Family Residential Estate Mobile (REM). Staff recommended approval to the Planning and Zoning Commission and on October 26, 2010 the P&Z recommended approval of this zone change.

Mayor Miyagishima said I put this item on the Consent Agenda because it is a zone change to bring the property into compliance with our Code.

Christy Cook, Anne Shannon Representative said they have lived on this property for thirty years and this is her only option to bring it into compliance so she can possibly sell these parcels.

Laura Haas, Member of the Public said I reside on the property that is directly east of this property and we are worried that by allowing the REM zoning now, it would set a presidence for higher zoning designations for this neighborhood. We would like to see some kind of non-conforming certificate that would allow Anne Shannon to continue to live on her property and would allow the zoning to become EE when the selling of the property occurs. Many of the residents of this neighborhood have concerns with this issue and they attended the Planning and Zoning meeting but they weren't able to attend today's meeting.

Mayor Miyagishima said if someone wishes to purchase this property or do construction on this property then they'd have to have permits pulled and the property would have to be in compliance in order for that to take place.

Cheryl Rodriguez said the property owner had made the decision to pursue the zone change to bring her property into compliance. She could have asked staff for a non-conforming use certificate but it was her right to file a zone change application. The REM designation allows for a minimum lot size of half an acre so the property can stay just like it is, it doesn't have to be subdivided.

Councillor Sorg said I have been studying this issue for the past two weeks and I just want to say that I support diversity in this City. This is an opportunity to correct mistakes that were made in the past and there is already a property in this area that is zoned REM but it was subdivided into smaller lots. Do you know anything about that property?

Cheryl Rodriguez said I don't know the specifics of the other properties.

Councillor Sorg said I can see that larger lots will make the value of this area higher. I would like to ask the property owner if she would consider combining both her lots into one lot and have us issue a non-conforming certificate for her trailer so it could be zoned EE.

Christy Cook said we haven't talked about doing that but I don't think she would be interested in doing that right now because she wants to eventually sell each parcel separately.

Councillor Sorg said couldn't we issue a non-conforming certificate and give it an EE designation on the condition that the trailer couldn't be sold with the property?

Councillor Connor said I just want to say that if they needed to borrow any money the banks wouldn't like any of those options.

Cheryl Rodriguez said we could offer a condition to the zoning (REM-C) that would require the minimum lot size to be 3/4 acre as opposed to an half acre. I just spoke with the applicant's representative and she said they would be okay with that option.

Councillor Sorg asked would the neighbors be okay with it?

Councillor Thomas said it would be very expensive to subdivide the lots and include all the road improvements required for this property.

Cheryl Rodriguez said that's correct.

Councillor Thomas said the neighbors could also look into doing some kind of Overlay for their neighborhood.

Councillor Sorg said I think they need to form a Neighborhood Association and work with the City on creating an overall plan for your neighborhood.

John Haas, Member of the Public said there isn't anyone in this neighborhood that is looking to eliminate any type of housing. We are concerned about the character of the neighborhood which is the agricultural, animal raising nature and we have concerns with the density of this neighborhood.

Councillor Connor said I am concerned with us making changes to this request without the property owner present.

Cheryl Rodriguez said we do have a letter from the property owner that states she is giving her representative the authority to speak on her behalf.

Christy Cook said her main concern is that these properties are zoned so they are sellable.

Councillor Sorg Moved to Amend Council Bill No. 11-019; Ordinance 2599 to change the zoning designation to REM-C with the condition of a minimum 3/4 acre lot size and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 11-019; Ordinance 2599 to change the zoning designation to REM-C with the condition of a minimum 3/4 acre lot size and it was Unanimously APPROVED. 7-0

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 11-019; Ordinance 2599 as Amended and it was Unanimously APPROVED. 7-0

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(24) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 11-154; A PUBLIC HEARING MUST BE HELD:**

Mayor Miyagishima said the Public Hearing is now open for Resolution 11-154. Is there anyone who wishes to speak against this item?

None given.

Mayor Miyagishima closed the Public Hearing.

Resolution No. 11-154: A Resolution Approving the Transfer of Ownership of Liquor License No. 2787 to Hurricane Alley LLC db/a Hurricane Alley, Located at 1490 Missouri Avenue, Las Cruces, New Mexico.

Councillor Connor Moved to Adopt Resolution No. 11-154 and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-154 and it was Unanimously APPROVED. 7-0

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(25) Resolution No. 11-155: A Resolution Authorizing the City of Las Cruces to Accept a Grant Award for Fiscal Year 2010-2011 in the Amount of $14,300 From the New Mexico Tourism Department for the Las Cruces Convention & Visitors Bureau, Which Requires a Three Hundred Percent (300%) match and to Adjust the Fiscal Year Budget.

Councillor Connor Moved to Adopt Resolution No. 11-155 and Councillor Thomas Seconded the motion.

Ken Mompellier, CVB gave an overhead presentation and said each year the New Mexico Tourism Department solicits proposals through their Cooperative Marketing Program from non-profit organizations in furtherance of the NMTD's marketing efforts. The grant will allow the CVB to further its advertising campaign to enhance overnight visitation to Las Cruces from the business and leisure visitors markets. In June, the Las Cruces CVB responded to the request and as a result, was awarded $14,300. The grant requires the CVB to spend $42,900 on advertising to receive the match which the $42,900 is already part of the current CVB advertising budget. There will also need to be an adjustment made to the 2010-2011 Fiscal Year Budget to reflect the grant amount.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-155 and it was Unanimously APPROVED. 7-0

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(26) Resolution No. 11-156: A Resolution to Create a Policy for Display of Art in City Facilities to be Known as the Art on Loan Program and to Adjust the FY2010-11 Budget.

Councillor Connor Moved to Adopt Resolution No. 11-156 and Councillor Thomas Seconded the motion.

Lori Grumet, Public Services Director gave an overhead presentation and said this is a resolution to create a policy for displaying art in City facilities. Local artists requested the ability to display their work in the new City Hall and other facilities and a committee convened to discuss options for this request. We are going to have an ad-hoc committee to pilot the program for the first year and an official board may be appointed for subsequent years. The artists will submit applications and the committee will jury the works prior to hanging them. The normal exhibit period for five pieces of artwork will be from six months to a year. The program will begin with the new City Hall and may be expanded to other facilities in subsequent years but our museum facilities will be excepted from

this program. Only works from living Dona Ana County resident artists will be accepted and all works must be original pieces. The art may be sold during the exhibition and the City would receive a 30% commission on any pieces sold during the exhibit. The lender who's piece was sold will be given the first option to supply a replacement piece during the exhibit period and the lender will assume all risk during the loan with the understanding that the art will be in a public area and may be vulnerable. Staff and the ad-hoc committee will report near the end of the pilot program and seek direction on any modifications and the continuation of the program.

Councillor Thomas asked how will the ad-hoc committee members be selected?

Lori Grumet said we are anticipating that those appointments will be made by the Council.

Councillor Thomas said I don't know if we want to only have "living" artists work displayed.

Lori Grumet said we do want only "living" artists works displayed for this pilot program because we want to focus on our artists that are living and working in this community to give them a little bit of an economic engine.

Councillor Small said I am pleased with this proposal and I think a lot of thought went into it.

Greg Smith said I have to make a disclosure, my mother is a living artist and as a property and business owner here, I may stand to benefit if this City becomes known as a place to buy good art. I do want to encourage you to go forward with this because there will be multiple benefits to our community.

Rebecca Courtney, Member of the Public said I served on the committee and I just want to say that we really appreciate being notified to participate on this committee. The Dona Ana County has showcased children's art in their facility for several years and we felt it was important to give the professional and upcoming artist in our city the opportunity to show here.

John Northcutt, Member of the Public said I am a living artist and I'm the President of Art Forms. We appreciate your efforts for allowing our artist the opportunity to show their work but we do have concerns with the $10 application fee because nowhere else charges an application fee.

Mayor Miyagishima said we could deduct the $10 from the 30% fee once an item is sold.

John Northcutt said the flaw is that every artist is asked to pay the application fee but only five artists will be chosen to show their work so the other artists won't get the opportunity to get their money back.

Susan Fairie, Member of the Public said I would suggest that you only charge the artists that are selected to show their work.

Councillor Silva said I was surprised that we are only going to select five artist because we do have a lot of space here. I don't have a problem with the $10 charge because it will separate the serious artists from the non-serious artists. I would suggest that we have some kind of "Best of Show" type thing for the artists.

Lori Grumet said we could consider having some kind of award program somewhere down the line.

John Northcutt said I would recommend that there be an amendment to this resolution on page two where it states there is a $10 fee to fund advertisement and I think it should be re-worded to state there is a $10 application fee to fund the program.

Councillor Pedroza Moved to Amend Resolution No. 11-156 to change the wording on page 562 to state there is a $10 application fee to fund the program instead of a $10 fee for advertisement but there was no Second to the motion.

Councillor Connor said I don't see a need for the amendment because it's not part of the resolution.

Councillor Pedroza withdrew her motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-156 and it was Unanimously APPROVED. 7-0

Councillor Connor Moved for a Five Minute Recess and Councillor Sorg Seconded the motion.

Mayor Miyagishima said all those in favor of a Five Minute Recess signify by saying Aye.

Council stated Aye.

Meeting Recessed at Approximately 4:00 p.m. and Reconvened at approximately 4:09 p.m.

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(27) Resolution No. 10-11-448: A Resolution Awarding a Contract for the Construction of a Solar Photovoltaic (PV) System at the Las Cruces Convention Center, Bid Number 10-11-448, to DPW Solar, Corp., Albuquerque, NM, For a Contract Sum, Not to Exceed $375,000.00, Plus an Allowance of $28,359.38 for Gross Receipts Tax and a Contingency of $37,500.00, for a Total Project Authorization of $440,859,38, Based on a Unit Cost of $3.394 Per KWH.

Councillor Connor Moved to Adopt Resolution No. 10-11-448 and Councillor Small Seconded the motion.

Eric Martin, Project Management Administrator gave an overhead presentation and said the Convention Center is pretty much completed and up and running now and we are ready to move forward with the next phase of the project which is the installation of a photovoltaic system. The funding for this project is from the ARRA (American Recovery and Reinvestment Act) and we will be monitoring this system during the first year after the installation to see how much energy is produced. This construction will have very little impact to the Center so it can continue to be up and running during this time. These are all Federal funds so we aren't able to give local preference on this project.

Councillor Small said I'm glad to see this project coming forward and this industry is growing fast in our area. I think we need to educate ourselves and gain more knowledge to be able to properly put out our RFPs for these types of projects.

Robert Garza, City Manager said me and Tom Schuster have had discussions about putting out an RFP to deal with City's facilities in general and that should be forthcoming soon. We will be looking for people to come in and assess our facilities so we can move forward.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-11-448 and it was Unanimously APPROVED. 7-0

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(28) Resolution No. 11-136: A Resolution Adopting the 2010-2020 Impact Fee Land Use Assumptions for Major Roads, Drainage, and Public Safety as Required by Las Cruces Municipal Code Chapter 33, Development Impact Fee.

Councillor Connor Moved to Adopt Resolution No. 11-136 and Councillor Thomas Seconded the motion.

Mike Johnson, Public Works Director introduced John Stott, Duncan and Associates Consultant and said we have been working on this since 2006. In order for us to implement these fees, we will need to approve the land use assumptions which is the document that is before you today, and we need to approve the Impact Fee Infrastructure Capital Improvement Plan which actually establishes the projects and the actual impact fees that we would like to implement. In order to conform with our Municipal Code and the State Statute of the Land Use Assumptions, we are required to hold a public meeting which we did on December 16, 2010 and as per State Statute, the Council is required within thirty days after the public hearing to approve or disapprove the Land Use Assumptions.

John Stott, Duncan and Associates Consultant gave an overhead presentation and said the proposed impact fee facilities for this assumption is a major road fee, stormwater drainage, public safety facilities like Fire, Rescue and Police Facilities and related major equipment. The Infrastructure Finance CIP was initially presented to City Council on March 9, 2009 and there were Work Sessions held on April 8 and May 6, 2009. A summary document was presented to the Capital Improvements Advisory Committee (CIAC) on November 19 and December 17, 2009 and the CIAC reviewed the 2010 Land Use Assumption (LUA) on September 16, 2010 and approved it on October 21, 2010. The Impact Fee service areas would be City-wide fees for Public Safety and Growth Area only fees for major roads and drainage. The City-wide residential growth based on population growth and household size trends show about a 2% annual growth for 2010-2020 with an amount of 9,832 new units. The growth area for residential growth based on the analysis of growth area's share of the City-wide development shows about a 3% annual growth rate for 2010-2020 with an amount of 9,233 new units. We did an existing inventor derived from the County Assessor data for the non-residential growth of 2010-2020 and the GIS analysis identified developed parcels in the growth area. The growth rate based on the residential growth rate shows there is a City-wide annual growth rate of 2.4% and the growth area annual growth rate is 3.3%.

Mayor Miyagishima said so, you are basically asking Council to approve this resolution which states that the City is growing in the direction that you pointed out and then you could move forward.

Mike Johnson said this is the first step in establishing impact fees. The second phase of the project would develop the actual impact fee and the amount of that fee.

Mayor Miyagishima said there is still more opportunities to speak with our stakeholders.

Mike Johnson said yes, there will still be a lot of public discussions taking place.

Councillor Connor said this is required by State law but phase two isn't absolutely necessary if we don't make any changes to our impact fees.

Mike Johnson said that is correct.

Councillor Connor said the only thing I did discuss with Mr. Johnson was my concerns with the projections of the hotel and motel rooms which shows an increase of about 241 rooms within a ten year period. I can tell you that in this year alone we will probably have an additional 150 rooms added to our inventory. I just think your projection is a little under-estimated. The Capital Improvements Advisory Committee has also been through these land assumptions and they have already approved and adopted this plan.

Mike Johnson said that is correct.

Councillor Thomas said I noticed that in one of the public meetings Eddie Binns suggested that we tone down the projections because he thought they were a little high but Mr. Stott said that these projections were in line with the growth models for this area.

John Stott said that is correct, we have looked at all the growth models from this area.

Councillor Sorg asked will these numbers change once you received the numbers from the 2010 Census?

John Stott said the census data will come out in April but I don't think there will be that much of a difference.

Isaac Chavez, Member of the Public said I'm with the Las Cruces Association of Realtors and this is exactly what we wanted; nothing is perfect but the Capital Improvements Advisory Committee is okay with these numbers and we can live with it.

Judd Singer, Member of the Public said I'm with the Homebuilders Association and we still have some concerns with these numbers. We don't have concerns with the residential projections but we do have concerns with the commercial and industrial projections. That is a new area for the assessment of impact fees and it wasn't highly reviewed because we didn't expect impact fees for commercial properties. The problem is that when you over-project growth it hurts the numbers more than under-projecting growth. I would ask that you take the time necessary to review these numbers.

Mayor Miyagishima asked can we do the residential first and then the commercial or does it all have to be done together?

John Stott said no, the legal presidence for impact fees requires them to be proportionate; you can't change one class as a fee payer and not the other, all classes have to be treated as the same.

Mike Johnson said you want to project to low because that caps the amount of borrowing which can't be raised if you see a rise in growth so you want to get a good average projection.

Mayor Miyagishima said I think there is a lot more work involved with this but I think it's important that we keep we the economic engine of the City growing and we don't want to put unnecessary burdens on people who are wanting to move to this area.

Councillor Small said I think we're on the right track and it is okay for us to start a little bit slower but I think we need to move forward with this today.

Mayor Miyagishima said I just want us to move forward as transparently as possible.

Eddie Binns, Member of the Public said an impact fee is nothing more than a tax and the equality of the tax between the people you are taxing is very important. There needs to be a considerable amount of discussion regarding whether the formulas devised are equitable to the payers.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-136 and it was Unanimously APPROVED. 7-0

IX. BOARD APPOINTMENTS

Mayor Miyagishima appointed James Allen Hayes to the Las Cruces Utility Board.

Councillor Small Moved to Approve the Mayor's Board Appoint of James Allen Hayes to the Las Cruces Utility Board and Councillor Pedroza Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's Board Appoint of James Allen Hayes to the Las Cruces Utility Board and it was Unanimously APPROVED. 7-0

X. REVIEW OF PROPOSED ORDINANCE(S)

None given.

XI. STATUS/UPDATES ON CURRENT PROJECT LIST

1. **Downtown Main Street Construction** - *(Utility and storm drain construction continue. Road closures at Main/Lucero Avenue. Main/Las Cruces open to east bound traffic.)*
2. **Del Rey/Sandhill Arroyo** - *(Storm Drain Box Culver 100% complete. Utility work 100% complete. Del Rey traffic on detour route with closure at Settlers Bend.)*
3. **Santa Cruz Avenue** - *(The Declaration of City Equitable Ownership outlined in the attached email was filed by staff yesterday at the County Clerk's Office. The Street Systems Section is currently scheduling the grading of the roadway over the next several weeks.)*
4. **Las Cruces Dam Army Corps of Engineers 1135 Project**- *(City council approved resolution 11-095 on October 18, 2010 to proceed with the Design and Implementation of plan 4 of the Las Cruces Dam Restoration Study, Section 1135 project in conjunction with the Army Corps of Engineers. The City is currently reviewing the draft of the detailed project report with the integrated environmental assessment. The Army Corps of Engineers is in the process of generating and sending the City of Las Cruces a cost sharing project agreement. The City's share of the project will be 25% of the project cost.)*
5. **Impact Fees** – *(The project is on-going. The final Land Use Assumptions document was presented to the Capital Improvements Advisory Committee (CIAC) on September 16, 2010 and approved by the CIAC on October 21, 2010. City staff is drafting a resolution for City Council consideration in December.)*
6. **Las Cruces Intermodal Facility** – *(Staff has reviewed various site layout options with the consultant and has provided additional feedback for further consideration. In addition, staff is planning a meeting with stakeholders early in the new year to review the revised plans and solicit additional input. Once this process is complete, staff will then schedule a presentation for City Council review.)*
7. **EPA Smart Growth Implementation Assistance Program (SGIA)** - ***(November 22, 2010: Picturing El Paseo: Share Your Vision for the Corridor.*** *Community Development Department staff completed two components of this planning project with the EPA, DOT and HUD. The Road Safety Audit, conducted October 26 & 27, was a formal safety performance evaluation of El Paseo Road by a multidisciplinary team of professionals from the Federal Highway Administration, the New Mexico Department of Transportation, the Las Cruces Metropolitan Planning Organization (MPO), and the Las Cruces Police, Transit, and Public Works departments. The preliminary findings are available upon request and will be published on the Picturing El Paseo website. The final report on El Paseo's Roadway Safety Assessment will be available soon. The second Visioning Workshop was held November 18-20, with over 75 people attending during the three-day period. The attendees were very enthusiastic and offered many thoughtful and creative ideas for potential redevelopment of El Paseo Road. Materials from the workshop are being added daily to our website and a summary presentation will be made to City Council in the coming weeks. This component of the project will come to a close as the year ends and the project partners complete their*

toolbox of public participation techniques. The third component of the project, Business Retention and Recruitment, will continue through the early part of 2011. The project website is www.picturingelpaseo.org*)*

8. **New City Web Site** – *(Staff from all City departments are preparing content for their respective departmental portions of the new web site.)*

9. **Sage Café** – *(Electrical work is underway. City staff has worked with the contractor to finalize the equipment list and have also entered a requisition that encumbered the state funds prior to the end of the calendar year.)*

10. **Grants/ARRA Status - *http://www.las-cruces.org/PDFs/grant_matrix.pdf***

Councillor Thomas said I am still getting complaints from people who are unable to find the Strategic Plan on our website.

Robert Garza, City Manager said I spoke with our IT Director and we are looking at a drop date of January 20th for every department to hand in their information and we are estimating at getting the new website up and running in March.

XII. GENERAL DISCUSSION

1. MAYOR

Mayor Miyagishima said I am handing out some information that I received over the holidays and the first item is that the City of Las Cruces is holding a Soldier's Farewell Ceremony on January 8th at 1:00 p.m. at the Las Cruces Convention Center, the next one is that Dona Ana County is looking to issue some Industrial Revenue Bonds to construct a solar power generation plant, the next one is the Hold Harmless, the Municipal League sent this to me and it shows what the projection would look like if we were to lose the Hold Harmless Clause. The next thing is regarding the Charter for the Municipal Judge and I just wanted to point-out to you that the Charter states that if we do fill the vacancy then they would only serve until the next election which is in November of this year.

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2. CITY COUNCIL

Councillor Silva said I want to remind the residents in the Alameda area that there will be a shut-down for about two weeks to install some Qwest lines. I would like to know what the benefits are to installing these lines?

Robert Garza, City Manager said I'm sure exactly what they proposing to do there but I will find out for you.

Mayor Miyagishima said they did the same thing in District 6 and we were told that it was to upgrade their lines so they could get the high speed internet.

Councillor Silva said regarding Item 10 on the Consent Agenda, we issued another parking space to another food vendor and I think we should have a Work Session to address at what point do we draw the line.

Councillor Connor said I would like to ask people who are driving in the University area to be cautious because the new Barnes and Noble construction site has a lane closure around Solano and it catches you by surprise if you don't know it's there.

The ditch project that I have been working on for about five years at the Mesilla Recreation Center is about halfway completed and we are hoping it will be completed within the next few weeks.

I was in Santa Fe for the Inauguration and it was a wonderful event. I spoke with a lot of people and it was nice to hear that Las Cruces is considered an outstanding community.

We had the Pie in the Park with Councillor Connor Event and it went very well.

Councillor Pedroza said I received some beautiful artwork that was done by some students of Conlee School that were sent to thank the City of Las Cruces for giving them the fruit trees.

I would like to know what the City is doing about people dying from exposure. I learned that in the winter of 2009 there were 19 people who had died from exposure and this year there have been 16 people so far who have died from exposure.

I had intended to resume my Walk in the Park program today but due to the cold temperatures I think I'm going to hold off resuming that for a while.

I am inviting everyone to attend an Ad Hoc Committee meeting regarding immigration issues on January 20th in Council Chambers and the first session will be from 1:00 - 4:00 p.m. and the second session will be from 5:30 -8:00 p.m.

Councillor Small said we spoke last year about scheduling a Work Session to discuss the Whole Enchilada Fiesta Softball Tournament and would like to revisit that now that we are having a little bit of down time.

I would like to thank Robert Garza, Mayor Barraza, Representative Gutierrez and a number of Tierra Verde residents for helping us move forward with the landscaping for that piece of ground.

Councillor Sorg said I was looking at some comments I made a year ago regarding infrastructure and several other things and I think we have made good progress on some of these things but we still have a long way to go.

Councillor Thomas said regarding the Dust Ordinance, when are we going to establish a committee?

Robert Garza said I understood that the Council wanted to have a Council appointed committee which will require a resolution and that is scheduled to come before you on January 18th.

Councillor Thomas said we also spoke about an Economic Development Summit and I don't know if we have done anything on it.

Robert Garza said I do recall a discussion about that but nothing has been put into motion at this time. If that is something that you wish to pursue then I will need a little more direction on it.

Councillor Thomas said I have spoken with several people and there seems to be an interest in doing something and I would suggest that we do some kind of summit and keep it very broad.

During last month when we were looking over the City Manager's contract I asked that we look at the evaluation process for the City Manager so I would ask that we move forward with that issue.

Mayor Miyagishima said we are going to have a Work Session on how to get legislation or information put through because sometimes one Councillor will ask staff to put something through and they can't do that because the rest of the Council didn't agree to it.

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3. **CITY MANAGER**

A. Presentation Regarding the 911 Outage.

Hugo Costa, MRVDA Director handed out some information, gave a verbal presentation and said this is only a brief summary report of what happened during the outages but the Emergency Operations Center and the Office of Emergency Management for the City and the County will be putting together a comprehensive report which will be submitted to the County Commissioners on January 11th. I have asked them to also forward a copy of their final report to the City Council. We had two outages in Las Cruces, the first one occurred in the afternoon of December 14th and it was the result of a Qwest fiberoptic line being cut. The second one was in the evening of December 27th

and it was due to Qwest's manually rerouting of landline circuits from the first incident. We learned a lot from both outages and we implemented our emergency plans during these outages but our backup which was to use the New Mexico State Police also had their lines out so we had to think out of the box. Our non-emergency lines were working at some degree so we notified the Emergency Operations Center, City and County PIO offices so they could immediately publish our non-emergency numbers to be used as emergency lines. Some of the problems that we encountered were that we had no advance notice from Qwest which we have spoken with Qwest and requested that they inform us of any problems even if it doesn't affect the 911 lines. We did find out that Qwest has over 200 of these types of cuts per year which does concern us. The other problem we encountered was that this outage effected everyone so we didn't have a backup system. It did help that we had a preliminary plan in place so we were able to get the ball rolling and it was an easier process instead of having to stop and think about what we needed to do. There was tremendous cooperation between all of the public multi-agencies and everyone mobilized very quickly. We are meeting with another company that uses satellite technology for 911 calls which is something we can consider using if this should happen again.

Mayor Miyagishima said the 911 line is a landline and is a rollover line; correct?

Hugo Costa said that is correct. We can have twelve calls at the same time on the 911 line and ten calls on our non-emergency line.

Mayor Miyagishima said Qwest ties their phone lines with their internet lines within their fiberoptic lines and Comcast has landlines that are separate from their internet lines so maybe we could consider having Comcast lines as a backup system as well.

Hugo Costa said companies don't usually work well together; we were trying to resolves issues with Qwest here and AT&T in El Paso so we can be able to transfer 911 calls to each other but that failed because AT&T wasn't willing to work with Qwest so I'm not sure how it works out with Qwest and Comcast working together. Another issue is that right now, Comcast doesn't have any cable access to the MRVDA building or Downtown Las Cruces so they would have to run the cable to that area which would probably be costly.

Councillor Connor said there was a debriefing on December 20th which I attended because I'm the Chair of the MRVDA Board and it was very interesting to hear how the public agencies worked together but it seemed that the agencies that worked outside the public arena were the ones who caused more problems; not only Qwest but the media wasn't relaying the exact same information that was given to them to the public. I think the MRVDA staff, LCPD, the Fire Department, the County, just all of the players worked together and handled this situation very well. I have sat with some of the 911 dispatchers and I discovered that the technology of the VOIP systems has made things more complicated.

Mayor Miyagishima said since you're on the board, what solutions do you propose?

Councillor Connor said next week we are having our Retreat and we will be discussing several issues include this one.

Councillor Small said I have complete confidence in the way you are going about this situation. Do you feel there is an openness with Qwest on the request we have made so far?

Hugo Costa said I think there is an openness but they're just like every other corporation, they have to take things through their Legal Department and go through the process which makes things take a little bit longer.

Councillor Silva asked did Qwest agree to inform us of every incident?

Hugo Costa said yes.

Councillor Silva asked are we contracted with Qwest and does that make it more difficult to just switch to another provider?

Hugo Costa said 911 is highly regulated and Qwest is the only 911 provider for this State; there are some smaller providers but Qwest is our only provider.

B. Update on Sister Cities.

Deferred until the January 18, 2011 meeting.

C. Update on Doña Ana Arts Council.

Deferred until the January 18, 2011 meeting.

D. Other Items - Information Only.

Robert Garza, City Manager said I just want to mention that there will be a TIDD Meeting at 1:00 p.m. and then the Work Session will immediately follow that meeting on January 10, 2011.

Meeting Adjourned at 6:45 p.m.