



City Council
of the
City of Las Cruces

DRAFT
Regular Meeting
June 20, 2011
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, City Manager
- Harry (Pete) Connelly, 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
26 Connor led the Pledge of Allegiance.

28 Presentation of Certificates of Appreciation/Proclamations.

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

33 Councillor Connor presented the Medal of Honor to WWII Veteran Jesus Pinon Holguin, U.S. Army.

35 Mayor Miyagishima presented the Distinguished Service Award to Sgt. Lawrence A. Archuleta.

37 Councillor Connor presented a Proclamation to Mathew Lee and declared June 26 thru July 2, 2011
38 as National Mosquito Awareness Week.

40 Andy Hume, MPO presented the City with the Bicycle Friendly Community Award.

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

5
 6 Mayor Miyagishima asked if anyone had any conflicts with anything on the agenda?

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 8 Councillor Silva said I have a conflict with Item 8 because he is my accountant.

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 10 Mayor Miyagishima said that's not a conflict, you can just disclose it and that'll be fine.

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 12 Robert Garza, City Manager said Item 16 is a rezoning item and I own a residential lot in that area
 13 but I don't have a conflict with it.

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 17 **III. PUBLIC PARTICIPATION**

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 19 Emma Murrillo, Member of the Public said I'm here to address the lack of friendly sidewalks for the
 20 disabled in Las Cruces. I see that the bicyclists are able to go up and down Las Cruces Avenue but
 21 it is very difficult for me to push my wheelchair to the Eastside Community Center.

22
 23 Mayor Miyagishima said there are a lot of areas that need those types of improvements and as we
 24 get the funding we are working on those areas. We will definitely look into your area and see what
 25 can be done.

26
 27 Leroy Lozier, Member of the Public said I am here on behalf of the hundreds of citizens that have
 28 signed this petition which is asking the City Council to preserve the original 1948 Memorial General
 29 Hospital building on Alameda Boulevard and to have it listed on both the State and National list of
 30 historical buildings.

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 32 Trina Witter, Member of the Public said I am the President of the Mesilla Valley Bicycle Coalition
 33 and I would like to congratulate the City on receiving the Bicycle Friendly Community Award.

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

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1 Mayor Miyagishima said Item 6 and Item 9 need to be removed from the Consent Agenda for
2 discussion.

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

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

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16 **V. CITY COUNCIL MINUTES**

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- * (1) Regular Meeting of May 16, 2011
- * (2) Special Meeting of June 1, 2011
- * (3) Regular Meeting of June 6, 2011
- * (4) Special Meeting of June 8, 2011

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

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* (5) Resolution No. 11-244: A Resolution Approving an Agreement Between the City of Las Cruces and SER de New Mexico, Jobs for Progress, Inc. (SER), to Continue Summer Employment Services for "At Risk" High School Age Youth. Total Cost of the Program Will Not Exceed \$51,000.00.

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* (7) Resolution No. 10-11-510: A Resolution Approving an Indefinite Cost, Indefinite Quantity Price Agreement for Occupation Medical Services to Desert Health Care of Las Cruces, NM for a Term of Up to Five (5) Years Conditioned Upon Annual Renewals and Approved Budgets.

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* (8) Council Bill No. 11-040; Ordinance No. 2620: An Ordinance Authorizing a Real Estate Purchase Agreement Between the City of Las Cruces and Norm Fristoe And/Or Assigns, for the Sale of 0.75 Acres of Municipally Owned Land at 2305 E Nevada Avenue in the Entrada Del Sol Industrial Park for the Purchase Price of Two Hundred and Ten Thousand Dollars (\$210,000.00) in Accordance With Provisions of Section 3-54-1, NMSA, 1978, as Amended.

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VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

*** (6)** Resolution No. 11-245: A Resolution Approving an Agreement Between the City of Las Cruces and SER de New Mexico, Jobs for Progress, Inc. (SER), to Continue Employment Services for "At Risk" High School Age Youth in the Parks and Recreation Section. Total Cost of the Program Will Not Exceed \$42,255.00.

Councillor Small Moved to Adopt Resolution No. 11-245 and Councillor Thomas Seconded the motion.

Councillor Silva said this item is regarding the City providing jobs for at-risk kids and I felt it was worthy of a presentation.

Mark Johnston, Parks & Recreation Administrator said there are a couple of programs that we work with SER on and one of them is a summer program which is ran through the PIO Department. We work with about twenty kids through the different programs and this gives them real life experience. Item 6 is a year-round program that has three attendees that have to have a C grade point average, good attendance and they commit to a year in the Parks & Recreation Program.

Councillor Silva asked where to we get the funding for these programs?

Mark Johnston said these are General Fund dollars.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-245 and it was Unanimously APPROVED. 7-0

*** (9)** Council Bill No. 11-041; Ordinance No. 2621: An Ordinance Approving a Zone Change From C-2 (Commercial Medium Intensity) to C-3C (Commercial High Intensity-Conditional) for Four (4) Distinct Properties, Two (2) Located at 5995 Bataan Memorial West and 5245 Porter Road and Two (2) With Parcel Identification Numbers 02-26602 and 02-26603, All Located on the Northwest Corner of Bataan Memorial and Porter Road. Submitted by Rick Stoes on Behalf of Goodgame Family LP and JK Family LP, Property Owners (Z2834).

1 Councillor Small Moved to Adopt Council Bill No. 11-041; Ordinance No. 2621 and Councillor
2 Silva Seconded the motion.

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6 Cheryl Rodriguez, Department Services Administrator gave an overhead presentation and said
7 parcels 1, 2 and 3 encompass approximately 1.48 acres each and parcel 4 encompasses
8 approximately 4.28 acres. Parcel 1 contains a gas station, parcels 2 and 3 are currently undeveloped
9 and parcel 4 contains a storage unit facility. The proposed zone change to C-3C would facilitate
10 compliance with the 2001 Zoning Code for all four subject properties. Currently, there are no
11 proposed development plans and no proposed changes to the existing conditions for the subject
12 properties by the applicant. Staff has reviewed this zone change request and recommended approval
13 with the following conditions: the subject parcels shall follow all requirements of the Sunrise Mesa
14 Subdivision Master Plan, all new utilities shall be placed underground, whenever any expansion or
15 structural modification up to 10% of the total combined gross floor area of all buildings on Parcel
16 1 is initiated, the entire subject will have to come into compliance with the 2001 Zoning Code, to
17 provide adequate auto and bicycle parking and whenever any expansion or structural modification
18 up to 10% of the total combined gross floor area of all buildings on Parcel 4 is initiated, the entire
19 subject will have to come into compliance with the 2001 Zoning Code, to provide adequate buffing.
20 On April 26, 2011 the Planning and Zoning Commission recommended conditional approval for this
21 zone change.

22

23 Councillor Silva said we are basically upgrading the zoning to bring it into compliance; correct?

24

25 Cheryl Rodriguez said that is correct.

26

27 Gloria Flores, Member of the Public said I own property in this area and I don't have any argument
28 against the zone change but I do want to mention that parcels 2 and 3 are full of dry grass and it is
29 a fire hazzard.

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33 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 11-041; Ordinance
34 No. 2621 and it was Unanimously APPROVED. 7-0

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38 (10) Resolution No. 11-246: A Resolution to Adjust the Adopted Fiscal Year 2010/2011 Budget
39 to Provide for Allocation of Operating and Capital Costs Due to End-of-Year Review of
40 Revenues and Expenditures.

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42 Councillor Small Moved to Adopt Resolution No. 11-246 and Councillor Sorg Seconded the motion.

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Dick Gebhart, Budget Director gave an overhead presentation and said there are sixty-eight funds being adjusted, two funds are being closed and there are one hundred thirty nine individual budgetary items of which fifty-four are revenues and eighty-five are expenditures. The reasons for the General Fund changes regarding revenues is that the fines/collection are higher than anticipated, interest allocations and funds closing. The reasons for the General Fund changes regarding expenditures is due to the actual expenditures on capital projects/grants, calibration of debt services requirements, claim settlements and step and pay increase allocations. The end of year summary is that there is a slight increase in the General Fund ending balance, the adjustments focused on compliance and alignment not budget enhancement and this is a good routine budgetary business practice.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-246 and it was Unanimously APPROVED. 7-0

(11) Resolution No. 11-247: A Resolution to Adopt the Fund Balance Policy of the City.

Councillor Thomas Moved to Adopt Resolution No. 11-247 and Councillor Sorg Seconded the motion.

Pat Degman, Comptroller gave an overhead presentation and said the actual name for this is the Fund Balance Reporting and Governmental Fund Type Definitions. This was approved by the GASB Board in February 2009 and released on March 11, 2009, it will be effective for the fiscal year ending June 30, 2011 and it only applies to governmental funds. The objective is to provide clearly defined and uniform fund balance categories for a more consistent application across governments, to specify the appropriate use of the governmental funds, require certain disclosures regarding the fund balance in the notes to the financial statements and to provide guidance on the criteria for a fund balance policy. The policy focuses on the unassigned fund balance in the General Fund, establishes an appropriate level or minimum amount of unassigned fund balance at 8.33% or 1/12 of the annual budget expenditures, it provides a financial cushion for revenue shortfalls or unplanned expenditures, provides for replenishment of the unassigned fund balance within one to three fiscal years should the balance fall below the minimum established amount and it delegates authority to the assigned fund balance to the City Manager. It is important for us to have this policy in place before the end of our fiscal year which is June 30, 2011.

1 Councillor Sorg asked where would the GRT that is designated for street maintenance fit?

2

3 Pat Degman said we don't see any changes in that reporting this year.

4

5 Councillor Silva asked would the funding for the Convention Center be attached to one of these
6 funds?

7

8 Pat Degman said those funds are by the CVB fund which is funded by the Lodger's Tax so it is
9 already in a special fund because it is special revenue.

10

11 Councillor Pedroza asked is there a huge change from what we have been doing or are we just
12 putting it in writing?

13

14 Pat Degman said the reporting does improve the transparency and we'll be able to tell the readers
15 more about what those numbers really encompass.

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19 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-247 and it was
20 Unanimously APPROVED. 7-0

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24 (12) Resolution No. 11-248: A Resolution Repealing Resolution 09-047 and Approving a New
25 Fee Waiver Policy for Military Services, Memorials and Community Events Held at Veterans
26 Park.

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28 Councillor Small Moved to Adopt Resolution No. 11-248 and Councillor Sorg Seconded the motion.

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32 Mark Johnston, Parks and Recreation Director said we have found over the past couple of years that
33 there are other special community events that are sponsored by private entities which didn't qualify
34 for the fee waiver so we went back to the Veterans Advisory Board and the Parks and Recreation
35 Board with a revised policy that broadens the type of events that would qualify for the waiver.

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39 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-248 and it was
40 Unanimously APPROVED. 7-0

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2 (13) Resolution No. 11-249: A Resolution Authorizing the Write-off of Uncollectible Utility
3 Accounts Receivable from Calendar Years 1999 Through 2006 in the Amount of
4 \$1,395,968.04.

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6 Councillor Small Moved to Adopt Resolution No. 11-249 and Councillor Thomas Seconded the
7 motion.

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11 Paul Edwards, Accountant gave an overhead presentation and said this accounts receivable write off
12 includes delinquent accounts from 1999 to 2006 for gas, water, wastewater and solid waste which
13 we tried to collect on in-house and then we sent them to a collection agency. The law allows for us
14 to write these debts off after four years but it doesn't extinguish the debt. Most residents pay their
15 utilities and we only have about a 1% debt rate.

16

17 Councillor Silva asked is there still any efforts in trying to contact them to collect this debt?

18

19 Paul Edwards said all of them have already been final billed and the collection agency is more
20 efficient in trying to locate and collect these individuals or businesses.

21

22 Councillor Connor said when someone owes us a debt then tries to open up service again with us,
23 they aren't able to do that until their debt is paid off with us; correct?

24

25 Paul Edwards said that is correct..

26

27 Mayor Miyagishima asked have we ever used an attorney to try to collect these debts?

28

29 Paul Edwards said there is a statute of limitation of four years for suing someone who owes a debt
30 and we only had a couple of accounts that were a little over \$3,000 but most of them were small
31 amounts so it wouldn't make sense to pay more in legal fees.

32

33 Mayor Miyagishima said I met a gentleman from a law firm that does this and only takes a
34 percentage of what they collect as a fee so maybe we can consider that in the future.

35

36 Russ Warner, Member of the Public said you should compliment your Finance Department because
37 the percentage of debt is excellent.

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41 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-249 and it was
42 Unanimously APPROVED. 7-0

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(14) Resolution No. 11-250: A Resolution Authorizing the Write-off of Uncollectible Miscellaneous Accounts Receivable from Calendar Years 2002 Through 2006 in the Amount of \$118,605.93.

Councillor Small Moved to Adopt Resolution No. 11-250 and Councillor Thomas Seconded the motion.

Paul Edwards, Accountant gave an overhead presentation and said this is similar to the previous item. This accounts receivable write off is for five years of unpaid debt for landfill, bulk water, utility line damages, utility line extensions and about fifty percent of it is for traffic accident damages. These debts have been sent to a collection agency and this write off does not extinguish the debt.

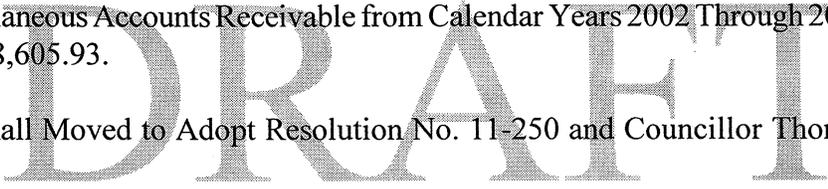
Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-250 and it was Unanimously APPROVED. 7-0

VIII. BOARD APPOINTMENTS

Mayor Miyagishima reappointed Belia Alvarez (Lodging Representative) to the Convention and Visitors Bureau Board.

Councillor Small Moved to Approve the Mayor's board reappointment of Belia Alvarez (Lodging Representative) to the Convention and Visitors Bureau Board and Councillor Thomas Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board reappointment of Belia Alvarez (Lodging Representative) to the Convention and Visitors Bureau Board and it was Unanimously APPROVED. 7-0



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

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3 (15) Council Bill No. 12-001; Ordinance No. 2623: An Ordinance Approving a Zone Change
4 From C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for 0.27 ±
5 Acres of Land Located at 1300 S. Solano Drive. Submitted by Borderland Engineers &
6 Surveyors, LLC on Behalf of Resources for Children & Youth Inc., Property Owner (Z2836).

7

8 Mayor Miyagishima and Council agreed to bring this item back.

9

10 (16) Council Bill No. 12-002; Ordinance No. 2624: An Ordinance Approving a Zone Change
11 From R-1B (Single-Family High Density) to C-1C (Commercial Low Intensity-Conditional)
12 for 0.25 ± Acre Tract Located South of the Future Extension of Sedona Hills Parkway and
13 East of Pagosa Hills Avenue; Parcel ID# 02-37615. Submitted by Sonoma Ranch
14 Subdivision Ltd. Co. On Behalf of Area 51 LLC, Property Owner (Z2837).

15

16 Mayor Miyagishima and Council agreed to bring this item back.

17

18 (17) Council Bill No. 12-003; Ordinance No. 2625: An Ordinance Redistricting the City of Las
19 Cruces' Six (6) Districts, Redrawing District Lines, and Repealing LCMC 1997, Sec. 8-2 in
20 Its Entirety and Enacting a New Sec. 8-2.

21

22 Robert Garza, City Manager gave an overhead presentation and said this is the same presentation that
23 was given to Council at the Work Session this morning. To date we have had nine public meetings
24 with the Mayor and Council regarding the Redistricting process and the Redistricting Ad Hoc
25 Committee has had three public meetings so collectively we've had twelve public meeting regarding
26 redistricting. This ordinance is before you for the first read and if you agree to bring it forward then
27 the ordinance will be brought before you for approval on July 5 and it will have the option for you
28 to select Plan F2 or F3.

29

30 Greg Smith, Member of the Public said I have heard people discussing the differences in having one
31 Councillor for the historic districts or having more than one. I think it might make it simpler to say
32 that the historic districts are in that district instead of in this district and that district.

33

34 David Chavez, Member of the Public said I think Plan F3 would look good for the historic districts.

35

36 Russ Warner, Member of the Public said redistricting has a reputation for being a political football
37 and I would like to ask that you keep that at a minimum here.

38

39 Frida Flores, Member of the Public said I would love to see the historic districts stay together.

40

41 Ryan Dailey, Member of the Public said my choice would be Plan F3.

42

1 Jo Rupert, Member of the Public said it is better to be able to deal with one Councillor in the historic
2 districts so I would support Plan F3.

3

4 Tamie Smith, Member of the Public said I'm in support of Plan F3.

5

6 Jim Harbison, Member of the Public said redistricting is a once in every ten-year event and it's not
7 about the next election so I'd ask that you keep that in mind.

8

9 Wayne Huber, Member of the Public said I am supportive of Plan F3.

10

11 Mayor Miyagishima said ten years ago when they were doing the redistricting, I was running for
12 Councillor of District 6 and they only had one work session with three plans to choose from and it
13 was voted on at the next meeting. The process being done for this redistricting has given more
14 opportunities for the public to give their input and there have been changes made to the plans to
15 reflect that input.

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17 Mayor Miyagishima and Council agreed to bring this item back. [Council Bill No. 12-003;
18 Ordinance No. 2625]

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22 **X. GENERAL DISCUSSION**

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24 **1. MAYOR**

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26 Mayor Miyagishima said I just came back from the Mayor's conference in Baltimore and it went
27 very well. There were a lot of discussions regarding CVBG funds and I will be bringing forward a
28 more formal presentation at our next meeting.

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32 **2. CITY COUNCIL**

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34 Councillor Thomas said I went to several events this week and everywhere I went I received kudos
35 for our Parks and Recreation Department so I want to say kudos to them for everything they do.

36

37 I want to thank Chief Williams and his staff for their help during the neighborhood meeting in the
38 Loma Heights area.

39

40 I would like to have an update on the Book on Bus program and the vision for El Paseo.

41

1 I attended the TEX 21 Conference in El Paso this week and they have a very good system and a very
2 good transportation plan.

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6 Councillor Sorg said I attended the Clean Government Summit conference last week in Washington
7 and some of the things we were trying to get support for were the energy efficiency block grants and
8 electric vehicles.

9

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12 Councillor Small said I would like to thank the Codes Officers who joined us at the Montana Avenue
13 neighborhood meeting this past Saturday and some of the residents were very pleased at some of the
14 improvements they have seen in their neighborhoods.

15

16 I want to give an advanced congratulation to the Shot Gun Range for the event that is being held this
17 upcoming Saturday and it was great to be a part of moving that project forward.

18

19 We need to remember that we still have some basic improvements that need to be done at some of
20 the parks and we need to continue to work on them.

21

22 I will be attending some meetings regarding the sign issues and I think it is important that we keep
23 that on the front burner.

24

25 I went to San Diego last week and the focus was the four border states and renewable energy
26 opportunities. It was very educational and I had the opportunity to tour a Solar Plant.

27

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30 Councillor Pedroza said I attended a Business Alliance for Local Economies conference in the State
31 of Washington last week and I was amazed at how large this group of people was and they were from
32 all over the country. Their focus is on local businesses and how they benefit your community.

33

34 I want to mention that Austin Trout was successful in defending his title.

35

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38 Councillor Connor passed.

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1 Councillor Silva said I'd like to thank Councillor Small for doing the dunk tank at the Gay Pride
2 Event.

3

4 I want to thank the Utilities Department for their quick response to a leak in one of the planters
5 which turned out to be a major line break at the Farmers Market.

6

7 I want to thank Chief Williams for his presentation at the neighborhood meeting that was held at
8 Loma Heights and the meeting was held to address some of the issues like recent break-ins in that
9 area.

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13 **3. CITY MANAGER**

14 A. Other items - Information Only.

15

16 Robert Garza, City Manager said I have asked the Fire Marshal to come forward and address the
17 issue of banning fireworks.

18

19 Steve Mims, Fire Marshal said New Mexico State law prevents anybody, including the Governor,
20 from banning all fireworks in any situation. There were some comments made about the
21 Legislature having a special session to discuss changing that law but I have contacted the
22 Governor's Office and there is no indication that they are going to have a special session. The
23 City of Las Cruces has done everything they can within the law to restrict the use of, sell of,
24 possession of fireworks. Our Safe and Sane ordinance and limiting the areas that fireworks can
25 be used is about all we can do.

26

27 Councillor Small asked can we put a link to that statute on our website?

28

29 Steve Mims said yes.

30

31 Robert Garza said we will be issuing a press release through PIO and we will include the state
32 law in that statement.

33

34 I want to mention that there is a Joint Work Session with the County at 9:00 a.m. on Thursday
35 and it will be held at that County building. There is also a Closed Meeting regarding the City
36 Manager's six month evaluation at 1:00 p.m. on the same day and it will be held here at City
37 Hall.

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41 **Meeting Adjourned at 3:55 p.m.**