

Regular Meeting  
August 1, 2011



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

**Regular Meeting**

**August 1, 2011**

**1:00 P.M.**

**Council Chambers, City Hall**

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**MEMBERS PRESENT:**

**STAFF:**

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

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

**DRAFT**

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**I. OPENING CEREMONIES**

25 Mayor Miyagishima called the meeting to order and asked for a moment of silence. Councillor Sorg  
26 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 Mayor Miyagishima and Councillor Sorg recognized the four chosen artists of the Loan on Art Pilot  
34 Program.

36 Councillor Sorg presented a Proclamation to Chief Williams (LCPD), Chief Brown (LCFD) and Kay  
37 Cavalcante (Target) and declared August 2, 2011 as National Night Out.

39 Councillor Sorg presented a Proclamation to Edgar Ortiz and Martha Bufano and declared August  
40 13, 2011 as Spirit of 45 Day.

42 Councillor Sorg presented a Proclamation to Greg Smith and declared the week of August 28 thru  
43 September 3, 2011 as New Mexico Centennial Salsa Fest Week.

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 2 Emmanuel Almeraz gave a presentation regarding the Saving an Angel Foundation  
 3  
 4 Patrick Peck gave a presentation regarding the Tire Bale Project on the Little Dam Arroyo.  
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 8 Councillor Connor Moved to allow Councillor Thomas to attend the meeting via telephone and  
 9 Councillor Silva Seconded the motion.

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 13 Mayor Miyagishima called for the roll on the Motion to allow Councillor Thomas to attend the  
 14 meeting via telephone and it was Unanimously APPROVED. 7-0

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

22  
 23 Mayor Miyagishima asked if anyone had any conflicts with anything on the agenda?

24  
 25 None given.

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 29 **III. PUBLIC PARTICIPATION**

30  
 31 Monty Shiver, Member of the Public said we were taken on a tour of the Natural Gas Department  
 32 and I was impressed with the staff because they really knew their jobs.

33  
 34 It has been my observation that when an applicant or a developer approaches Council regarding a  
 35 situation they get an unlimited amount of time to speak; however, the public that has a vested interest  
 36 in the situation are given time limits.

37  
 38 I applaud your efforts with the traffic cameras and I would agree with putting more of them in  
 39 because I think it would bring more money into the City which could be used to repair more streets.

40

1 Mayor Miyagishima said I want to mention that you can fill out a public participation form and  
2 request more time to speak during a meeting.

3

4 Charles Wender, Member of the Public said I had a \$6,000 roof exposed to the elements for an  
5 extended amount of time and I think you should prioritize your building inspections so jobs like that  
6 are done sooner.

7

8 I have been looking around town for property to start my business but I found that there are a lot of  
9 issues with the zoning of the properties.

10

11 I read an article in the paper regarding impact fees and I think impact fees will stifle the creation of  
12 businesses and jobs.

13

14 Victor Hagg, Member of the Public said regarding the Arc Center on Griggs Avenue, there were  
15 discussions about Angel Care taking over the Center but they are no longer an issue. There has been  
16 no other discussions regarding this Center so we don't know what is going on with it now.

17

18 Mayor Miyagishima said I think we'd like to see you and the other interested stakeholders have your  
19 own organization and then I think the City would be willing to just give you the building.

20

21 Victor Hagg said if we brought it up to standards, would the City be willing to maintain it?

22

23 Mayor Miyagishima said I don't see why not but that would be up to the Council. Just send me an  
24 email and we'd be happy to meet with you and the other stakeholders.

25

26 Ryan Dailey, Member of the Public said I want to clarify that there will only be one judge running  
27 during this upcoming election. I was appalled that this Council didn't consider hiring a second judge  
28 because the Charter states that Council has that power.

29

30 Regarding impact fees, I am for public safety but I can't support impact fees for anything else.

31

32 Robert Garza, City Manager said we had a public meeting in April regarding the hiring of a second  
33 judge and we had to consider that if hired a second judge now they would have had to leave their law  
34 practice for six months and then they'd had to run during this election. We also want to have our  
35 judges on staggered terms so we decided to wait until after this election to fill that position.

36

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

42

1 Mayor Miyagishima said Items 3, 4, 7 and 8 need to be removed from the Consent Agenda for  
2 discussion and Items 11, 12, 13 and 14 need to be moved up as the first items heard.

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6 Councillor Connor Moved to approve the Agenda as Amended and Councillor Small 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**

17

18 \*(1) Special Meeting of July 15, 2011

19 \*(2) Regular Meeting of July 18, 2011

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

24

25 \*(5) Resolution No. 12-020: A Resolution Rescinding Resolution No. 09-161 and Approving a  
26 New Agreement Authorizing the Holy Cross Retreat to Connect to the City Wastewater  
27 System.

28

29 \*(6) Resolution No. 12-021: A Resolution Approving a Lighting Agreement Between the City  
30 of Las Cruces and the New Mexico Department of Transportation to Provide for the  
31 Installation of an Interchange Lighting System on Ramps at the I-10/I-25 Interchange, Project  
32 No. LC00060, PCN LC00060.

33

34 \*(9) Resolution No. 10-11-560: A Resolution to Award a Bid to UTC Fire & Security Americas  
35 Corporation, Inc., for the Purchase and Installation of Digital Security Equipment for Transit  
36 Vehicles in the Amount of \$81,315.50 and to Adjust the City's Fiscal Year 2012 Budget.

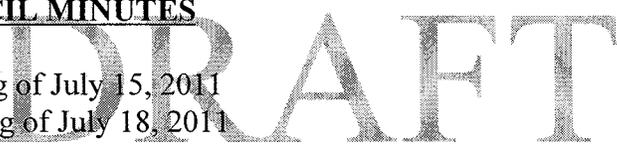
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40 **VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION**

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1 (11) Resolution No. 12-024: A Resolution Adopting the Impact Fee Capital Improvements  
2 Plan for Major Roads, Drainage, and Public Safety as Required by Las Cruces Municipal  
3 Code Chapter 33, Development Impact Fee (Las Cruces Development Impact Fee  
4 Ordinance).  
5

6 Councillor Connor Moved to Suspend the Rules and discuss Items 11, 12, 13 and 14  
7 concurrently and Councillor Silva Seconded the motion.  
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11 Mayor Miyagishima called for the roll on the Motion to Suspend the Rules and discuss Items 11,  
12 12, 13 and 14 concurrently and it was Unanimously APPROVED. 7-0  
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17 Councillor Small Moved to Adopt Resolution No. 12-024 and Councillor Sorg Seconded the  
18 motion.  
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23 Mike Johnson, Public Works Director gave an overhead presentation and said this process began  
24 in March 2006 and during this process we've had thirty eight meetings with Council and with the  
25 public. There are three fees that we are considering which are for major roadways, drainage and  
26 public safety. The major roadway fee would be for arterials only, the drainage fee would be for  
27 arroyo crossings only and the public safety fee could be used for capital infrastructure or  
28 equipment of \$10,000 or more with a value and a life of ten years or more. These funds would  
29 only be used for the construction of new roads and couldn't be used for any existing roads,  
30 drainage or public facilities. The top priority projects if these impact fees are approved are Del  
31 Rey Boulevard north of Sandhill Arroyo Project, Roadrunner Parkway north of US 70 Project  
32 and the Mesa Grande, Onate High School to Calle Jitas Project. The top priority public safety  
33 projects are the Fire Station #8, East Area Command LCPD and the East Mesa Public Safety  
34 Complex. We recommend that the fee be collected at the time of the building permit, that it be a  
35 flat rate for single-family residential and that all three fees become effective on January 1, 2012.

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43 Mayor Miyagishima said it is important for us to have our 911 East Mesa Command Center and  
44 we can never have enough public safety. We can have the different fees become effective on  
45 ~~different dates so it won't be all at once but I strongly think we should do the public safety now.~~  
46  
47 Councillor Connor said these fees are a lot less than they were the first time you brought them to  
48 us so we need to consider is this the level of service we want to provide for our community or is  
49 this just the amount of an impact fee that would get us closer to the level of service that we need.  
50 I would think that we would want to be at a level of service that puts us in the a, b or c category

1 but yet the whole impact fee discussion comes from land assumptions which we approved the  
2 land assumptions back in February. How many millions of dollars would we need for our flood  
3 projects to do it all today? It is \$32 million for drainage and \$85 million for streets. I have been  
4 trying to get Council to approve the selling of the Tee-Time property because that property is  
5 worth \$20 million and the money that comes from selling that property can only be used for flood  
6 control. If Las Cruces is a beautiful place then why would we want to tell people to come here  
7 and then we charge them more to do business. This is not the time to be doing impact fees and I  
8 would like it to just go away because if you have a 1,000 square foot office constructed then  
9 you've just added a fee of \$1,739. Public safety has been a number one concern for me since I  
10 came into this office but it has not been a priority of this Council for the past four years because  
11 other things have stepped ahead of it. I am not willing to add a public safety fee to new  
12 construction when it is something that we should have been doing all along. We've received  
13 emails over the past five days from bankers, realtors and from the Home Builders Association  
14 stating that this is the worst time to put any impact onto this community.

15

16 Councillor Small said Councillor Connor stated that in her opinion, the last four years has not  
17 been spent paying attention to public safety; I think you can tell that it's election season. I think  
18 we have to acknowledge that this is a team effort and the credit for the East Mesa Fire Station  
19 goes to a number of different folks.

20

21 Councillor Sorg said I want everyone to keep in mind that you only get what you pay for and I  
22 have received several emails stated that they don't want these impact fees for various reasons but  
23 people are also tired of all the incomplete streets around town, the flooding and the crime in their  
24 neighborhoods. If we want this City to grow, where are we going to get the needed \$85 million?  
25 These impact fees are going to be necessary in order for us to have a good city and a good city  
26 attracts new businesses. I would agree with postponing this a little bit until the economy picks up  
27 but I think we have to move forward with these impact fees.

28

29 Councillor Pedroza said growth to a city does bring some cost to it and nobody wants to pay that  
30 cost but the money has to come from somewhere. I think having impact fees will stimulate  
31 growth. Would affordable housing be exempt to some of the impact fees?

32

33 Mike Johnson said there is a potential waiver system for affordable housing.

34

35 Councillor Pedroza said I think with impact fees the City would be able to manage the building  
36 of the roads within our city. I would like to know why you would prefer having the flat rate  
37 instead of a variable rate?

38

39 Mike Johnson said a flat rate would be easier on the accounting and there wouldn't be issues  
40 with the square footage but I'm not against having a variable rate.

41

1 Councillor Thomas said regarding the roads and drainage fees, I want to point out that this is not  
2 a new cost because developers are already collecting for roads and drainage and then they build it  
3 themselves. The problem with this system is that we get a patch system on the roads. This is not  
4 going to be a tax, it is a fee for services that will be paid by the people who are creating the  
5 increase in services. We don't need to implement all these fees at the same time but we do need  
6 to get them on the books.

7

8 Mayor Miyagishima said this will actually help with the selling of existing homes because it will  
9 be more expensive to build a home than to purchase one that is already built and if we make this  
10 effective January 1, 2013 then more developers will rush to develop their projects before this  
11 take place so this would help stimulate the economy.

12

13 Councillor Sorg said I just want to mention that Rio Rancho doesn't have any fees but they have  
14 a lot of flooding problems.

15

16 Councillor Silva asked how can we improve our current system without impact fees?

17

18 Mike Johnson said in order to make modifications to our current system you would have to  
19 amend your current roadway design standards to require developers or private property owners to  
20 build 100% of the necessary infrastructure back to the nearest paved road from their  
21 development.

22

23 Councillor Silva asked can we use Special Assessment Districts for certain areas?

24

25 Mike Johnson said that is an option; however, there are different issues with Special Assessment  
26 Districts.

27

28 Mayor Miyagishima said all we would be doing is taking the cost away from the developer and  
29 shifting it to us but the homeowner is going to pay that cost one way or another.

30

31 Steve Trowbridge, Member of the Public said currently, developers are required to build all  
32 adjoining major arterial roadways; under the new system, would they be free from that  
33 obligation?

34

35 Mike Johnson said yes.

36

37 Farrell Thurston, Member of the Public said we do need better safety, better roads and better  
38 drainage but this isn't the way to raise the money. We don't pay impact fees but the people who  
39 buy our houses do pay the impact fees so we are fighting for the people who buy our houses.

40

1 Aaron Diaz, Member of the Public said we are all in favor of a safer Las Cruces but we are still  
2 in a recession and this isn't the time to be putting a cost for services on people who are buying  
3 houses. This isn't a fee, it would be a tax on new families.

4

5 Dan Townsend, Member of the Public said there was a study done and it showed that the average  
6 household expenditures for people in existing homes went up 66% and we all need to look at the  
7 future situations. We already have a lot of homes that are worth less than their mortgage.

8

9 Michael Huerta, Member of the Public said these impact fees will stop development and the  
10 people in this city do need roads, drainage and safety but they also need to have jobs.

11

12 Alonzo Ruiz, Member of the Public said I represent Hakes Brothers which is a local developer  
13 and we have pulled the most permits over the past two years. If you pass these fees, it will effect  
14 a lot jobs and we are strongly against these impact fees.

15

16 Russ Warner, Member of the Public said it is a little bit of an over-reaction to state that if you  
17 raise these impact fees, you are going to kill the growth of Las Cruces. Your main concern  
18 shouldn't be how big you want Las Cruces to grow, it should be how can you make Las Cruces a  
19 better place to live.

20

21 Bill Allen, Member of the Public said I am representing the Greater Las Cruces Chamber and the  
22 Chamber is opposed to these impact fees, primarily because of the timing.

23

24 Lloyd Covens, Member of the Public said I think the City should be complimented on keeping a  
25 tight financial plan and having a surplus in these times. There is always someone trying to put off  
26 these types of impacts but this was started four years ago. We have to think about the continuing  
27 demand we are putting on our gross receipt tax and if we keep doing this then we are eventually  
28 going to bring that fund down to zero. I would like to see the arterials be delayed for one or two  
29 years and that the drainage and safety be implemented in January 2012.

30

31 Mel Acosta, Member of the Public said I am the Vice-Chair for the Planning and Zoning  
32 Commission of Dona Ana County and the impact fees seem to be going in a direction that it  
33 should not be at this time. These impact fees aren't really necessary at this time and it should not  
34 be allowed.

35

36 Isaac Chavez, Member of the Public said I am the CEO of the Realtors Association and I am here  
37 to speak on behalf of the 407 hard working small business people that make up our association.

38 This discussion has been going on for five years and a lot has happened during that time. This  
39 does have an effect on our economy and this is probably the worst economic environment that  
40 this city has ever been in. Our position is that we can live with the public safety fee but we would  
41 request that you delay all of the fees until January 1, 2013.

42

1 Ron Camunez, Member of the Public said for the past fourteen years Council has always put  
2 public safety at the top of the list but then they get pet projects and public safety gets moved to  
3 the back of the list. Today you are trying to make up for lost time on the backs of workers, young  
4 families, people who are barely making it; I would be ashamed. It is time that you put aside your  
5 personal agendas and do what is right which would be to delay any impact fees.

6

7 Eddie Binns, Member of the Public said I have been following this procedure for the past five  
8 years and the estimated growth pattern is probably twice of what we will actually see for this  
9 community. This will raise the rent of any newly built apartment by \$20 a month because by the  
10 time you take the cost of the impact fee and add it to the loan for financing and the interest  
11 charged on that money, it increases the payment by about \$20 a month. We should look at the  
12 fire and safety to be spread over the entire community, not just the 2 ½ % of new consumers. I  
13 know it will benefit city-wide but the 2 ½ % of new consumers are the ones who will be paying  
14 for it so I think it should be spread out over the entire community because this is going to be an  
15 unfair tax on them. This is the worst recession that I have seen in the 50 years that I've been in  
16 Las Cruces and now is not the time to impose impact fees; we should be cutting them.

17

18 John Hadley, Member of the Public said everyone wants something done but they want someone  
19 else to pay for it. Impact fees are a tax and if you want to do the right thing then raise the gross  
20 receipt taxes and then give them their streets.

21

22 Ron Leoni, Member of the Public said I am with Steinborn Real Estate and I've been working in  
23 that industry for the past twenty years and these are the most trying times that I have ever seen. I  
24 would vote for a deferment of the impact fees because I don't want to see dirt roads and I don't  
25 want to see businesses going out of business.

26

27 Linda Chavez, Member of the Public said I am a small business owner in Las Cruces and when I  
28 come into this city I see big government building and then I see roads that aren't finished. These  
29 impact fees are going to detour growth in this area. I don't have a cold, large office and I really  
30 don't want to pay for yours.

31

32 Laura Zaley, Member of the Public said I am a third generation realtor in Las Cruces and I  
33 believe all of us are in favor of beautification and meeting our needs as we grow but we need to  
34 be careful and not rely on people to come into our city to support our community. You need to  
35 look at the big picture and realize that most of the people that come into our town have financial  
36 issues as well; most are retired and living on a tight budget. I would really encourage you to think  
37 ~~about our current economy and how devastating this would be to everyone.~~

38

39 John Greco, Member of the Public said I am a realtor and I have a degree in economics. A basic  
40 theory in economics is that if you raise the price then you reduce the demand. Builders are having  
41 a hard time getting loans from banks because of the high down payments they are now requiring  
42 and this will not help matters.

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2 Ben Rawson, Member of the Public said it was stated that you are simply shifting the cost from  
3 the developer to the contractor and if that were true then the developers would be in support of  
4 this but I don't believe that is the case. We are choosing to put the cost on a hard working  
5 industry and to take the money from that industry and give it to other people and I am very  
6 opposed to that.

7

8 John Hummer, Member of the Public said I'm with Steinborn Real Estate and Councillor Sorg  
9 stated that "you get what you pay for" which I agree with but the problem is that we have not  
10 received what we have already paid for so I'd ask is there going to be a rebate giving to those that  
11 paid but didn't get anything? There are some homes that can sell for about \$127,000 but a \$20  
12 increase can push someone over and disqualify them. Regarding public safety, I don't think this  
13 will even come close so you need to take it to the voters and raise the money that is needed. I'd  
14 ask that you please delay this and revisit it at the time when the economy changes.

15

16 Alfonso Archuleta, Member of the Public said I did a lot of affordable housing in the past and it  
17 has been kinda impossible to build during the last couple of years. This may increase the value of  
18 your house but in doing that, your property taxes also go up.

19

20 Judd Singer, Member of the Public said impact fees are just a regressive tax that is charged on  
21 places where people have to live and are charged on people who can't afford it. We need to  
22 remember that there will also be sales tax charged to the person on top of the impact fee.

23

24 Chris Hakes, Member of the Public said I work with Hakes Brothers and we have been fortunate  
25 to be able to continue to build houses. Texas is right on line with us on our current impact fees  
26 and they are weathering this economic situation very well and I think they should be the model  
27 for us to follow. I do the hiring for our subcontractors and I get calls everyday asking if we have  
28 any work for them. They will also be effected by this and I think these expenditures should be  
29 paid by everyone, not just the few who would be effected by it.

30

31 Councillor Connor said I have already stated why I don't think impact fees are a good idea right  
32 now and there have been suggestions that maybe we could delay the date until 2012 or 2013 but I  
33 can't make that prediction. I think it should be either up or down today but we shouldn't burden  
34 another Council with this issue in the future.

35

36 Councillor Small said we have heard agreement about public safety and about good infrastructure  
37 in the community. Some people have mentioned an increase in GRT but I believe that would be a  
38 little unfair because there are people in my district that have lived in their homes for two or three  
39 decades and they have already paid their property and GRT taxes. These fees aren't perfect but I  
40 think they are the best thing for the entire community. I'd agree with having them become  
41 effective on a certain date and to determine that date, I'd like to know what the forecast is for our  
42 growth?

1 Robert Scaling, Treasurer said the current forecast for Las Cruces is fairly flat for Fiscal Year  
2 2012 and everything that is going on in our Nation's Capitol is going to effect everyone.

3

4 Mark Winson, Assistant City Manager said I can't really speak on the economy for the City of  
5 Las Cruces but in Minnesota there are many municipalities that are seeing a decrease in revenues.

6

7 John Hadley, Member of the Public said all the economist are saying the same thing which is the  
8 economy will come back when the construction industry comes back. The Depression took  
9 fifteen years to come back from and they are saying it'll be about the same time for us.

10

11 Councillor Small said there is an agreement on public safety and on infrastructure and the people  
12 who are selling Las Cruces are depending on a good product to sell. I have heard all the  
13 discussion about raising the GRT or property taxes but I think the fees we are discussing today is  
14 the best solution and I think they should be effective in 2013.

15

16

17

18 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-024 and it was  
19 APPROVED. 5-2 Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas  
20 and Mayor Miyagishima vote Aye. Councillor Silva and Councillor Connor voted Nay.

21

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23

24 (12) Resolution No. 12-025: A Resolution Adopting the Major Roads Impact Fee for New  
25 Development at the \_\_\_\_\_ (Flat or Variable) Rate Option for Single Family  
26 Development and at the Rates Indicated for the Various Land Uses Listed in Table 1  
27 (Maximum Impact Fee Schedule) on Page Two of the Impact Fee Capital Improvements  
28 Plan for Major Roads, Drainage, and Public Safety with an Effective Date of  
29 \_\_\_\_\_ as Required by Las Cruces Municipal Code Chapter 33,  
30 Development Impact Fee (Las Cruces Development Impact Fee Ordinance).

31

32 Councillor Small Moved to Adopt Resolution No. 12-025 and Councillor Sorg Seconded the  
33 motion.

34

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37 ~~Councillor Silva said I do support impact fees and I think it is a good tool but I think we should~~  
38 ~~all be on the same page and I don't see that happening here. It is hard for me to move forward~~  
39 ~~with any of these fees because I feel it is a half-hearted approach and the true casualty here is the~~  
40 ~~homebuyer. I don't think this is very transparent and there isn't even a date proposed which I~~  
41 ~~think creates a clueless business environment.~~

42

1 Councillor Thomas said we keep talking about this being an extra cost but this is already a cost to  
 2 the developers which is passed on to the homebuyers. The roads are being done now but it is  
 3 done in a piecemeal way which causes problems for public safety so all we are trying to do is  
 4 take that same money and develop a different system so we can build facilities that can serve all  
 5 the public.

6

7 Councillor Sorg said I think there is a lot of misunderstandings with this whole process. I was not  
 8 insinuating that these fees would pay for the incomplete roads in my district, all I am thinking  
 9 about is the future of this city. This isn't going to prevent people from having jobs, that is due to  
 10 our current economy.

11

12 Councillor Connor said the City promised the East Mesa new roads when they annexed that area  
 13 and that was twenty-three years ago. We have made strides in that area but there are other  
 14 districts that still have dirt roads and this will never balance out.

15

16 Mayor Miyagishima said these fees would allow us to get bonds for our projects. Would  
 17 everyone agree on making this fee effective on January 1, 2013?

18

19 Councillor Sorg said that is what I had penciled in before I came to the meeting today.

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22

23 Councillor Pedroza Moved to Amend Resolution No. 12-025 to insert "flat rate" in the first space  
 24 and "effective January 1, 2013" in the second space and Councillor Thomas Seconded the  
 25 motion.

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28

29 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 12-025 to insert  
 30 "flat rate" in the first space and "effective January 1, 2013" in the second space and it was  
 31 APPROVED. 5-2 Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas  
 32 and Mayor Miyagishima vote Aye. Councillor Silva and Councillor Connor voted Nay.

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36 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-025 as  
 37 ~~Amended and it was APPROVED. 5-2 Councillor Pedroza, Councillor Small, Councillor Sorg,~~  
 38 Councillor Thomas and Mayor Miyagishima vote Aye. Councillor Silva and Councillor Connor  
 39 voted Nay.

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1 (13) Resolution No. 12-026: A Resolution Adopting the Drainage Impact Fee for New  
 2 Development at the \_\_\_\_\_ (Flat or Variable) Rate Option for Single Family  
 3 Development and at the Rates Indicated for the Various Land Uses Listed in Table 1  
 4 (Maximum Impact Fee Schedule) on Page Two of the Impact Fee Capital Improvements  
 5 Plan for Major Roads, Drainage, and Public Safety with an Effective Date of  
 6 \_\_\_\_\_ as Required by Las Cruces Municipal Code Chapter 33,  
 7 Development Impact Fee (Las Cruces Development Impact Fee Ordinance).

8  
 9 Councillor Sorg Moved to Adopt Resolution No. 12-026 and Councillor Small Seconded the  
 10 motion.

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13  
 14 Councillor Small said I think it is important to note that in the infill areas the roads and drainage  
 15 fees do not apply.

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19 Councillor Sorg Moved to Amend Resolution No. 12-026 to insert "flat rate" in the first space  
 20 and "effective January 1, 2013" in the second space and Councillor Small Seconded the motion.

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23  
 24 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 12-026 to insert  
 25 "flat rate" in the first space and "effective January 1, 2013" in the second space and it was  
 26 APPROVED.5-2 Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas  
 27 and Mayor Miyagishima vote Aye. Councillor Silva and Councillor Connor voted Nay.

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30  
 31 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-026 as  
 32 Amended and it was APPROVED. 5-2 Councillor Pedroza, Councillor Small, Councillor Sorg,  
 33 Councillor Thomas and Mayor Miyagishima vote Aye. Councillor Silva and Councillor Connor  
 34 voted Nay.

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37  
 38 (14) Resolution No. 12-027: A Resolution Adopting the Public Safety Impact Fee for New  
 39 Development at the \_\_\_\_\_ (Flat or Variable) Rate Option for Single Family  
 40 Development and at the Rates Indicated for the Various Land Uses Listed in Table 1  
 41 (Maximum Impact Fee Schedule) on Page Two of the Impact Fee Capital Improvements  
 42 Plan for Major Roads, Drainage, and Public Safety with an Effective Date of

1 \_\_\_\_\_ as Required by Las Cruces Municipal Code Chapter 33,  
2 Development Impact Fee (Las Cruces Development Impact Fee Ordinance).

3  
4 Councillor Small Moved to Adopt Resolution No. 12-027 and Councillor Sorg Seconded the  
5 motion.

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9 Mayor Miyagishima said I think if we go earlier on this one then we could use it for our bonding.

10  
11 Councillor Sorg said I'd agree with having it effective on January 1, 2012.

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14  
15 Councillor Pedroza Moved to Amend Resolution No. 12-027 to insert "flat rate" in the first space  
16 and "effective January 1, 2012" in the second space and Councillor Small Seconded the motion.

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DRAFT

20 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 12-027 to insert  
21 "flat rate" in the first space and "effective January 1, 2012" in the second space and it was  
22 APPROVED.5-2 Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas  
23 and Mayor Miyagishima vote Aye. Councillor Silva and Councillor Connor voted Nay.

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26  
27 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-027 as  
28 Amended and it was APPROVED. 5-2 Councillor Pedroza, Councillor Small, Councillor Sorg,  
29 Councillor Thomas and Mayor Miyagishima vote Aye. Councillor Silva and Councillor Connor  
30 voted Nay.

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33  
34 Councillor Connor Moved for a five minute recess and Councillor Small Seconded the motion.

35  
36 Mayor Miyagishima said all those in favor signify by saying aye.

37  
38 Council stated aye.

39  
40 Meeting adjourned at approximated 5:17 p.m. and reconvened at approximately 5:25 p.m.

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\* (3) Resolution No. 12-018: A Resolution Calling for the Election of a Mayor-at-Large; Councillors for Districts 1, 2, and 4; and Presiding Municipal Judge on Tuesday, November 8, 2011.

Councillor Silva Moved to Adopt Resolution No. 12-018 and Councillor Connor Seconded the motion.

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Esther Martinez, City Clerk said we need to make an amendment to remove the Holy Cross Church as a polling site and replace it with the Branigan Library.

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Councillor Connor Moved to Amend Resolution No. 12-018 to change polling places from the Holy Cross Church to the Branigan Library and Councillor Sorg Seconded the motion.

DRAFT

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 12-018 to change polling places from the Holy Cross Church to the Branigan Library and it was APPROVED. 6-0 Councillor Small was Absent.

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Councillor Silva said I know with the redistricting a lot of polling places have been changed but I noticed in District 1 there are three precincts that will be voting in District 5 and I would like to know why?

Esther Martinez said that was done because that was the closest polling place we could find for those precincts. We have had to do that in the past and it is allowed by law.

Councillor Silva said it states in the City Charter that the form format and related documents shall be prescribed by Council so how can there already be candidates collecting signatures when we haven't even approved this election yet?

Harry (Pete) Connelly, City Attorney said anyone can begin campaigning at anytime but the petitions aren't any good until the 42<sup>nd</sup> day prior to this year's election. All of the forms have been pre-packaged so there is no problem with someone picking up packets.

1 Councillor Silva said it's just not logical to me that they can collect signatures prior to the  
2 approval of the election ordinance.

3

4 Harry (Pete) Connelly said Council can change the forms but the forms can continue to be used  
5 as long as a Council has approved them. They continue to live until a Council gets rid of it.

6

7 Councillor Connor asked are signatures collected on July 22 valid?

8

9 Esther Martinez said yes, the signatures are valid as long as it is done on or after the date when I  
10 signed the form.

11

12 Esther Martinez gave an overhead presentation and said I want to mention that the County did  
13 make some changes to some of the precincts that will mostly effect District 5 and the changes are  
14 included in the resolution.

15

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18 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-018 as  
19 Amended and it was Unanimously APPROVED. 7-0

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23 \*(4) Resolution No. 12-019: A Resolution to Authorize and Approve Submission of a  
24 Completed Application for Financial Assistance and Project Approval to the New Mexico  
25 Finance Authority.

26

27 Councillor Sorg Moved to Adopt Resolution No. 12-019 and Councillor Small Seconded the  
28 motion.

29

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31

32 Robert Scaling, Treasurer gave an overhead presentation and said when the City issues revenue  
33 bonds those issues predominately have a period of time where they cannot be redeem which is  
34 usually ten years and at the end of that period those bonds become eligible for early redemption.  
35 Due to the current state of the economy there are really good interest rates available for  
36 refinancing and this would be a wonderful opportunity for the City to take advantage of the  
37 savings.

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41 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-019 and it was  
42 Unanimously APPROVED. 7-0

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\*(7) Resolution No. 12-022: A Resolution Authorizing Change Order Number Two for the Waterfalls Regional Pond Project, City of Las Cruces Project No. 08-09-445, to Increase the Contract Time by Seventy-Three (73) Working Days.

Councillor Small Moved to Adopt Resolution No. 12-022 and Councillor Sorg Seconded the motion.

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Councillor Silva said the contingency for this was originally 2007; correct?

David Maestas, Contracts Administrator said that is correct.

Councillor Silva said we add 55 working days to the first extension, why?

David Maestas said that was for the first change order for additional work.

Councillor Silva said this change is for time only; it has nothing to do with finances or extra money; right?

David Maestas said that is correct.

Councillor Silva said there was a survey done; who paid for it?

Robert Garza, City Manager said we have to do those surveys and provide the reports to them regularly to show things like mineral rights; so, it is part of our agreement.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-022 and it was Unanimously APPROVED. 7-0

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\*(8) Resolution No. 10-11-534: A Resolution Awarding the Contract for the Engler/Jornada Storm Drain Project to Morrow Enterprises, Inc. Of Las Cruces, New Mexico in the Amount of \$970,451.00 Plus \$73,390.36 for New Mexico Gross Receipts Tax. The City Manager is Authorized to Approve Change Orders in an Amount Not to Exceed

1 \$97,045.10, for a Total Project Authorization of \$1,140,886.46 and to Amend the FY  
2 2011/2012 Budget.

3  
4 Councillor Small Moved to Adopt Resolution No. 10-11-534 and Councillor Sorg Seconded the  
5 motion.

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9 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-11-534 and it  
10 was Unanimously APPROVED. 7-0

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14 (10) Resolution No. 12-023: A Resolution Adopting "Attachment F" School Gardening  
15 Partnership as Part of the Agreement Between the City of Las Cruces "City" and the Las  
16 Cruces Public Schools "LCPS" for Cooperative Use of Current and Future Recreational  
17 Space, Athletic Fields, Buildings and Facilities.

18

19 Councillor Small Moved to Adopt Resolution No. 12-023 and Councillor Pedroza Seconded the  
20 motion.

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23

24 Mark Johnston, Parks and Recreation Director gave an overhead presentation and said currently,  
25 community gardening programs are utilized across the country and there are a variety of approaches  
26 which includes volunteers, municipalities, co-ops and school programs. Attachment F proposes that  
27 the City would provide professional staff expertise, assistance with volunteers and recruitment,  
28 materials, labor, utility tap and meter for irrigation, technical assistance with water conservation and  
29 deliver bio-solids/compost for soil preparation. The City in collaboration with LCPS will seek  
30 additional funding opportunities to support the program; however, LCPS doesn't want to enter into  
31 any agreement that is not cost neutral. They don't mind if the City goes forward with the agreement  
32 but they don't want to go forward with any agreement that is going to cost more money so there  
33 seems to be a disconnect between LCPS administration and the individual schools.

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37 Councillor Connor left the meeting at approximately 5:55 p.m.

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41 Councillor Pedroza said there has been a great growth of interest within the schools and maybe we  
42 just need to keep talking with the administration because when I inquired about it with them they

1 told me that all a teacher has to do is put in a request and there is a good possibility that it'd be  
2 approved if it was under \$500.

3

4 Councillor Silva asked how are we working through the disconnect with LCPS?

5

6 Mark Johnston said it seems to me that the disconnect is between the LCPS administration and the  
7 individual schools. I was told by the administration that they don't want to take on any new  
8 initiatives that will cost additional money.

9

10 Councillor Silva asked so what is the game plan?

11

12 Mark Johnston said at this point, there really isn't a game plan because without a complete buy-in  
13 from the school board we're really kinda sunk with the new community garden partnership. The way  
14 things are looking, we won't be doing it on the school's property.

15

16 Councillor Silva said if a school gave a section of their playground for a community garden then that  
17 would be their contribution and then it would be up to the City to provide everything else.

18

19 Mark Johnston said that is one opportunity that we can explore but if this agreement is approved by  
20 Council then it still has to go through the Board. Council can decide to take up all the cost for it on  
21 school property which would give the Board another option.

22

23 Mayor Miyagishima said I could work with Councillor Pedroza and see if we could get someone to  
24 donate to the garden and in exchange we can post their company name as the garden's name.

25

26 Councillor Pedroza said I have done a lot of work on this but I'm still not sure what the relationship  
27 needs to be between the City and LCPS. We have received some grants for school classroom type  
28 gardens so I'm not sure if we can go forward without a formal agreement or if we have to have it.

29

30 Mayor Miyagishima said we need the agreement in order to utilize City staff. I would suggest that  
31 we table this item to give us some time to work everything out.

32

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35 Councillor Pedroza Moved to Table Resolution No. 12-023 and Councillor Sorg Seconded the  
36 motion.

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40 Mayor Miyagishima called for the roll on the Motion to Table Resolution No. 12-023 and it was  
41 APPROVED. 6-0 Councillor Connor was Absent.

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3 **VIII. BOARD APPOINTMENTS**

4

5 Mayor Miyagishima appointed Lamaia Vaughn (District 1) to the Senior Programs Advisory Board.

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9 Councillor Silva Moved to Approve the Mayor's board appointment of Lamaia Vaughn to the Senior  
10 Programs Advisory Board and Councillor Small Seconded the motion.

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14 Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appointment  
15 of Lamaia Vaughn to the Senior Programs Advisory Board and it was APPROVED. 6-0 Councillor  
16 Connor was Absent.

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DRAFT

20 Councillor Small appointed Dawn Rue (District 4) to the Parks and Recreation Advisory Board.

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

25

26 (15) Council Bill No. 12-006; Ordinance No. 2628: An Ordinance Approving a Zone Change  
27 from R-1A (Single-Family Medium Density) to O-1 (Office, Neighborhood-Limited Retail  
28 Service) for 0.30 ± Acres of Land Located at 2220 South Solano Drive. Submitted by Kirk  
29 Clifton on Behalf of Sandra Espiritu, Property Owner (Z2831).

30

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

32

33 (16) Council Bill No. 12-007; Ordinance No. 2629: An Ordinance Approving a Zone Change  
34 From C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for 1.55 ±  
35 Acres of Land Located at 4790 Stern Drive. Submitted by Mario Manriquez on Behalf of  
36 A & E Enterprises Inc., Property Owner (Z2938).

37

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

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42 **X. GENERAL DISCUSSION**

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**1. MAYOR**

Mayor Miyagishima said I will bring more information at the next meeting but I tried to start a Yellow Dot Program a few years ago and now according to USA Today, that program is the hottest one for Seniors. All this program entails is the Senior places a yellow dot on the car windshield and if they get into an accident the emergency personnel will see that yellow dot which allows them to look into the Senior's glove-box to access their medical information.

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**2. CITY COUNCIL**

Councillor Thomas passed.

DRAFT

Councillor Sorg said as part of the 2010 Strategic Plan, the two-year plan (Item 4) is to protect and promote our natural and energy resources and to pursue funding for high priority septic tank removal. We are about to come up on the two-year mark and there haven't been many septic tanks removed. A high priority area is the Latana Estates Country Club Manor and Sun Country Estates and about 80% of the residents are willing to pay to have their septic tanks removed and be hooked up to the City's septic system. I'd like to ask Council that when it comes before us to use the extra bonding funds, for us to provide the up-front cost for this project.

-----

Councillor Small said the Bantam Weight League is a league that is not run by the City but they have a City agreement. There have been serious concerns raised and a lot of discussions that I think are worthy for us to make sure it gets worked out properly because it does affect the youth.

I want to encourage everyone to go out to the County Fair that is being held at the Fairgrounds this week.

Coming up at the end of September is the Renewable Energy Fair that is being sponsored by the Green Chamber of Commerce and I know the first round of applications for the community partnership have been received so I think it'd be worthwhile to see what capacity staff can participate.

There is going to be a Local Food Fair held at the Court Youth Center with Alma de Arte serving the entire meal.

1 I'd like to ask for a concurrence from Council to direct staff to look into an issue with a detached  
2 sign for a small business and to look at the benefits for small businesses in displaying those types  
3 of signs. Currently there is a 40-day period per year to allow a permit for those types of signs to be  
4 used and there are feelings that it would be better to expand that period to around 100 days.

5

6 Mayor Miyagishima asked are you just asking to allow staff to take a look at it?

7

8 Councillor Small said yes.

9

10 Mayor Miyagishima said I don't have a problem with that. We'd probably like to see what is  
11 currently in place and the pros and cons of what Councillor Small is suggesting.

12

13 Councillor Small said there is going to be a Small Business Lending Fair this Friday at the Las  
14 Cruces Convention Center.

15

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18 Councillor Pedroza said there is a Food Summit at the end of September and La Semilla is a non-  
19 profit that is studying the local food supply. They are coming up with suggestions for farmers and  
20 showing us what we need to do to make our food healthier and more affordable.

21

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23

24 Councillor Silva said regarding Item 3, it was also provided in spanish and I was wondering if that  
25 was a requirement?

26

27 Esther Martinez, City Clerk said it is a requirement by State Statute.

28

29 Councillor Silva said many people have asked me if it would be possible to repeal the redistricting?

30

31 Harry (Pete) Connelly, City Attorney said it cannot be done because it is a quasi or administrative  
32 ordinance that was passed by Council and is not subject to referendum.

33

34 Councillor Silva said I had made a comment regarding the impact fees, that is was a half-hearted  
35 approach, but I want to make it clear that I did not direct that comment to staff's efforts.

36

37 I want to welcome Mark Winson to Las Cruces.

38

39 On August 9<sup>th</sup> and 10<sup>th</sup> there is going to be two community meetings at the Branigan Library, August  
40 9<sup>th</sup> will be a Neighborhood Policing Meeting for the Mesquite and Alameda Historic area and the  
41 August 10<sup>th</sup> meeting will be for the north Alameda area.

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**3. CITY MANAGER**

**A. Other items - Information Only.**

Robert Garza, City Manager said the paving of the north Downtown area is now completed and ready for the Salsa Fest and the National Night Out which is tomorrow night.

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**11 Meeting Adjourned at 6:25 p.m.**

**DRAFT**