City Council
of the
City of Las Cruces

Regular Meeting

October 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, 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	

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I. OPENING CEREMONIES

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

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.

Councillor Connor presented a Medal of Honor to WWII Veteran Col. Jesse P. (Jake) Jacobs, Jr. USAF (Retired).

Mayor Miyagishima and Councillor Connor recognized and presented the LCPD Swat Team Members certificates for their national recognition as the Agency Spotlight in the "Tactical Weapons" publication.

Mayor Miyagishima recognized and presented a certificate to Mr. And Mrs. Bruce Cabot for celebrating their 70th Wedding Anniversary.

Mayor Miyagishima presented the Mayor's Citation for Community Service to Robert Paquette.

Councillor Connor presented a Proclamation to Eva Madrid and declared October 2 thru October 8, 2011 as National 4-H Week.

Councillor Connor presented a Proclamation to Andy Hume and Naoma Staley and declared October 5, 2011 as International Walk and Roll to School Day.

Councillor Connor presented a Proclamation to Deputy Chief Steve Mims and declared October 9 thru October 15, 2011 as Fire Prevention Week.

Councillor Connor presented a Proclamation to Becky Mitchener and Dona Hearn and declared October 2011 as Dyslexia Awareness Month.

Councillor Connor presented a Proclamation to Virginia Maria Romero and declared October 2011 as Polish-American Heritage Month.

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Councillor Connor read a Proclamation and declared October 24, 2011 as Food Day.

Councillor Thomas presented an award to City Staff: Carol McCall, David Dollahon, Andy Hume, and Christine Logan for Picturing El Paseo.

Denali Wilson gave a presentation on "Serve and Learn."

Wayne Savage, Greater Chamber of Commerce Commercial Space Committee and Carolyn Windsor, Virgin Galactic gave a presentation on Commercial Space Opportunities.

Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council met in Closed Session at 11:00 a.m. on September 26, 2011. The following members were in attendance: Mayor Miyagishima, Councillor Silva, (Councillor Connor left at 11:10 a.m. prior to any discussion), Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas, City Manager Robert Garza, Assistant City Manager Mark Winson, Assistant City Manager Brian Denmark, Utilities Director Jorge Garcia, Assistant City Attorney Marcy Driggers, and Jay Stein. The meeting adjourned at 12:30 p.m. and only those limited items stated in the posted notice were discussed which was the threatened or pending litigation concerning the Lower Rio Grande Stream Adjudication, Third Judicial District Court Case No. CV-96-888 and the Operating Agreement for the Rio Grande Project.

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?

Councillor Connor said I have a conflict with Items 13 and 14; two months ago I didn't have a conflict but because we have an election coming up thirty-five days from now, there have been contributions from the neighborhood to my campaign and an in-kind contribution from the other side; therefore, I should recuse myself from that discussion.

III. PUBLIC PARTICIPATION

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Dolores Archuleta, Mayor Pro-tem Emeritus said the Centennial Parade will be on Saturday, January 7, 2012 at 11:00 a.m. It will be staged at the Loretto Town Center and travel north on Church Street, left on the turnabout and continue south on Water Street, back to the staging area. You can register for the parade on our website, "Las Cruces Centennial Parade" and the deadline to register is December 15, 2011. I also want to mention that the Veterans Parade is going to be on November 11, 2011 at 9:00 a.m.

Greg Smith, Member of the Public said I am the Chair of the Centennial Planning Committee and I want to clarify that our website is www.mvcentennial.org.

Jean Williams, Member of the Public said I am a vendor at the Farmers Market and I want to thank everyone who voted to make our Market number one in the Nation and I would like to thank the Mayor for presenting a Proclamation. We are excited to celebrate the Market's 40-year Anniversary and we are looking forward to many more. With the renovations of the Downtown, it is looking to be a place for many events and Ordinance 10-37 gives civic or non-profit groups the right to request the reservation of the entire Downtown area for large events. The Committee anticipates that as time goes by, the Saturday Market could be bumped frequently to accommodate future events. It has been discussed that Ordinance 10-37 should be more similar to Ordinance 10-35 which would not allow the Farmers Market to be displaced.

Mayor Miyagishima said I wouldn't ever want to see the Market displaced so maybe we can put a resolution on the next agenda stating that fact.

Councillor Silva said maybe we can have a work session to discuss the growth, the rules and regulations.

Alfonso Archuleta, Member of the Public said we still have a lot of work that needs to be done for our local businesses. I have had nothing but headaches with the move of my company and there are so many issues with your signs and permitting process.

Mayor Miyagishima said Robert has heard some of those issues and he is working diligently to come up with some solutions.

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 Item 10 needs to be removed from the Agenda, Items 2 and 11 need to be removed from the Consent Agenda for discussion and Items 13 and 14 will need to be heard concurrently prior to Item 2.

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Councillor Connor Moved to Approve the Agenda as Amended and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to accept the Agenda as Amended and it was APPROVED. 6-0 Councillor Pedroza was Absent.

V. CITY COUNCIL MINUTES

*(1) Regular Meeting of September 19, 2011

VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

*(3) Resolution No. 12-056: A Resolution to Authorize and Approve Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Purpose of Financing the Purchase of Four (4) New Solid Waste Collection Vehicles in the Amount of $890,000.00.

*(4) Resolution No. 12-057: A Resolution Authorizing the City of Las Cruces to Accept a Grant Award in the Amount of $50,972.00 From the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Under the FY11 Edward Byrne Memorial Justice Assistance Grant Program Local Solicitation, to Ratify the City Manager's Approval of the Grant Award and to Adjust FY 2012 Budget.

*(5) Resolution No. 12-058: A Resolution Authorizing a Biennial Memorandum of Understanding Between the City of Las Cruces, the New Mexico Mainstreet Program, and the Downtown Las Cruces Partnership.

*(6) Resolution No. 12-059: A Resolution Approving a Home Investment Partnerships Act (HOME) Recoverable Grant Agreement Between the City of Las Cruces and Mesilla Valley Habitat for Humanity (MVHFH) for the New Construction of Owner-Occupied, Single-Family Affordable Housing Units in the Paseo Del Oro Subdivision, Phase 2.

*(7) Resolution No. 12-060: A Resolution Approving a Community Development Block Grant (CDBG) Agreement Between the City of Las Cruces and Mesilla Valley Habitat for Humanity for the Acquisition of Two Vacant Land Parcels in the Amount of $52,000.00 for Construction of Single Family Owner-Occupied Affordable Housing Units in the Paseo Del Oro Subdivision, Phase 2.

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*(8) Resolution No. 12-061: A Resolution Approving a Signalization and Lighting Agreement Between the City of Las Cruces and the New Mexico Department of Transportation for the Installation of Traffic Signals and Intersection Lighting at the Intersection of I-10/Motel Boulevard Interchange, Project No. CN 1100360.

*(9) Resolution No. 12-062: A Resolution Approving the Purchase of a 4,565-Square-Foot Parcel of Land Owned by Mission Santa Clara, LLC, Located at 4184 La Purisima Drive in the Amount of Eighteen Thousand, Three Hundred Dollars ($18,300.00), as Part of the La Purisima Drainage Project.

*(10) Resolution No. 11-12-329: A Resolution Approving a Bid Award to CF Jordan Construction, LLC, of El Paso, Texas, in the Amount of $4,467,096.00 for the Rehabilitate Taxiway Alpha Phase Two Project at the Las Cruces International Airport, Approving Award of a Contract to Delta Airport Consultants, Inc., of Albuquerque, New Mexico, in the Amount of $950,409.00, Authorizing the Acceptance of a Grant in the Amount of $144,312.00 From the New Mexico Department of Transportation Aviation Division, and Adjusting the FY 2011/2012 Adopted Budget.

Removed from the Agenda.

*(12) Council Bill No. 12-013; Ordinance No. 2635: An Ordinance Approving a Zone Change From R-2 (Multi-Dwelling Low Density) to C-2C (Commercial Medium Intensity-Conditional) for 0.17 ± Acres of Land Located at 132 W. Willoughby Avenue. The Zone Change Request Includes One Variance for a Numerical Reduction of 10-Feet to Minimum Required 10-Foot Opaque Bufferyard. Submitted by Susan Frary, Property Owner (Z2840).

VII. UNFINISHED BUSINESS:

(13) Council Bill No. 12-002; Ordinance No. 2624: An Ordinance Approving a Zone Change From R-1B (Single-Family High Density) to C-1C (Commercial Low Intensity-Conditional) for 0.25 ± Acre Tract Located South of the Future Extension of Sedona Hills Parkway and East of Pagosa Hills Avenue; Parcel ID# 02-37615. Submitted by Sonoma Ranch Subdivision Ltd. Co. On Behalf of Area 51 LLC, Property Owner (Z2837). ***(Remanded to PNZ on 7-5-11; Reconsidered by PNZ on 9-8-11)***

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Councillor Sorg Moved to Adopt Council Bill No. 12-002; Ordinance No. 2624 and Councillor Small Seconded the motion.

Councillor Sorg Moved to Suspend the Rules and discuss Items 13 and 14 concurrently and Councillor Thomas Seconded the motion.

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

Cheryl Rodriguez, Development Services Administrator gave an overhead presentation and said this was previously heard by Council and at that meeting, Council remanded it back to the Planning and Zoning Commission to be considered again in conjunction with the development application for the special use permit. The Council also recommended that the applicant hold a neighborhood meeting which was done on July 14th. On July 26th the Planning and Zoning Commission reviewed the zone change for a second time and for the first time reviewed the application for a special use permit. There was public opposition to both cases at the Planning and Zoning Commission meeting but the Planning and Zoning Commission again recommended approval of both cases. After the P & Z meeting, City staff did review the special use permit application and did find a technical error. The Planning and Zoning Commission had a special meeting on August 9th and agreed to hear both items

at their Special Meeting on September 8th. At that meeting, they again recommended approval of both cases. Some of the neighborhood concerns are with the procedures regarding the application for the zone change, limits of the conditional zoning, multiple towers on site, spot zoning and leapfrogging. The applicant is proposing to construct a cell tower that is going to look like a palm tree. In R-1 zones, towers and communication structures are permitted to a maximum of 65-feet for non-commercial uses only. Commercial towers and communication structures are not allowed within the R-1 zone. If the zone change to C-1 is approved, towers and other communication structures are permitted by rights to a maximum height of 65-feet; however, if the property is adjacent to another residential zoned property then the applicant of the subject property must seek a Special Use Permit (SUP). The proposed tower conforms to the placement provisions for the C-1. As part of the review, the City hires at the applicant's expense, a qualified expert to review and provide a written recommendation to the Planning and Zoning Commission regarding the technical information. Greg Best Consulting was hired by the City of Las Cruces and the fee was $1,200 for the technical review. The applicant is required to provide a technical analysis and there are three items that need to be included as part of the technical analysis which are to provide a comprehensive statement and justification for the proposed structure location site, provide a communication coverage pattern calculation at the maximum height allowed at the proposed height and the mid-point height, and provide evidence that no other location exists for this service. Greg Best Consulting submitted an original report then they submitted an amended report which needs to be included as Exhibit A, and that was the report that was given to the Planning and Zoning Commission. Planning and Zoning has recommended approval of this item and the Special Use Permit and any basis for denial by this Council will need to be done so with factual reasons and the legal basis behind the decision and it must be stated clearly for the record. A final decision is supposed to be rendered within 150-days of the application which was done in March so the 150-day period was up around August 2nd; therefore, a decision must be rendered today.

Councillor Pedroza said I am feeling a little pressured by the fact that the 150-day period is already past due; so, is there any way we can extend the 150-day period because I don't know if I can make a decision today?

Cheryl Rodriguez said staff would encourage Council to make a decision on both the zone change request and the SUP today. If the zone change is denied then the application for the SUP becomes a mute point.

Councillor Pedroza said there was a perception that there was no proper notification to the residents in that area at the last meeting; was that issue corrected?

Cheryl Rodriguez said staff has followed the notification requirements set by the Zoning Code for every meeting.

Harry (Pete) Connelly, City Attorney said the City has to go by the rules and regulations set by our Code and we go beyond that by notifying neighborhood associations and publishing notifications in

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the newspaper.

Brian Sonomo, Applicant gave an overhead presentation and said we were approached by Verticom in 2010 for this site which they stated was the best site for the location of their cell tower. We did have a neighborhood meeting on July 14, 2011 with Verticom and only about 18 residents showed up for that meeting.

Councillor Silva asked is this the only tower that would be needed for this area?

Brian Sonomo said yes, the site isn't big enough for an additional tower.

Mayor Miyagishima asked at the P & Z meeting, were there any residents stating that they would not have moved there if they knew there was going to be a cell tower on that site?

Brian Sonomo said I'm sure that has come up before but about five years ago there were plans to have a fire station built there which would have required a communication tower so they knew there were plans for some kind of tower to be there.

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George Rawson, Sonoma Ranch Partner said we worked with the City for over a year and a half and yes, it was going to be a fire station substation as well as a police station and there was going to be joint use of a communication tower just like the one we are talking about here.

Denise Kirtinau, Verticom gave an overhead presentation and said this request is in compliance with the City's Zoning Code and Verizon has met all the required criteria outlined and requested. There are no other viable locations for this tower and this site would eliminate the need for several other tower sites in this area. Verizon prefers to use T-1 or fiberoptic lines which I believe one of those is available at this site, instead of using micro-waves.

Mayor Miyagishima said I just don't think it is right to have these people build their homes there and then do a zone change afterward.

George Rawson said I live in this area and I often have dropped calls because it is a dead spot. This tower would increase the coverage for this area and prevent the dropping of calls, including 911 calls.

Denise Kirtinau continued with her overhead presentation and said with the growth in this area, Verizon will soon not be able to offer optimal data and voice services for their users in this area.

Mayor Miyagishima asked do you have a map that shows the coverage for the other tower site locations instead of just this one site?

Denise Kirtinau said we wouldn't have a map of other sites because this is the only viable site.

Hamdi Alaldin, Verizon Design Engineer said we have sites in certain locations and we do a search for the areas that aren't fully covered by those towers which gives us a ring sector location.

Councillor Thomas said I think the issue here with the neighborhood is that this is going to be in a residential area instead of a commercial area.

Denise Kirtinau said the search ring I was given only has residential areas which usually would be our last option but in some cases it is our only option. Unfortunately, our service can't be provided underground, it has to be above ground and it is a necessary infrastructure, just like when a school or fire station goes in after you buy your house.

Councillor Thomas said I feel like I haven't been given enough options or a wide enough view.

Councillor Pedroza said this is not in compliance with the purpose and intent of the Code. We are supposed to produce our findings today so I would propose that one finding is that the notice requirements were not met and another finding could be that a great opposition has been expressed by the neighborhood residents.

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Hamdi Alaldin said we are here because your community is growing and we need to deal with that growth. The way we deal with that capacity is by creating more sites and we do plan eighteen months ahead based upon our collected data which is collected every hour of every day.

Councillor Silva said I know that more people are switching to smart-phones and disconnecting their landlines so I can understand you looking at capacity, not just coverage.

Councillor Small said there are a number of problems that have been outlined by the residents and we really need to address the process issues. Regarding the site location, it seems to me that co-location is a positive thing and I can see that moving it further to the east won't help to serve the people who are in that area here and now.

Mark Cobb, Member of the Public gave an overhead presentation and said I represent the Mir-Mar Neighborhood Association and we already have a rusty old water tank as an eye soar in our neighborhood so we don't need another one.

Linda Atwood, Member of the Public continued the overhead presentation and said I am the secretary of the Mir-Mar Neighborhood Association and we have had a great deal of opposition from the residents of this neighborhood. We have collected 160 signatures on a petition in opposition of this proposed tower. This lightning rod would be right in the center of our neighborhood and this spot zoning would not be in the spirit and intent of the Zoning Code.

Wayne Hancock, Member of the Public continued the overhead presentation and said the City Code requires a technical analysis that is prepared by a professional engineer be submitted with the SUP

application. I have consulted with the New Mexico Board of License for Professional Engineers and Professional Surveyors and I confirmed that Mr. Aladin is not a New Mexico Licensed Professional Engineer. Verizon was required to prove that no other site would work and it is clearly stated that the Dona Ana Community College site would work as well as this site. I did contact the college and they told me that they have not received any type of request for a cell tower at their facility. Verizon has failed to prove that no other location will do, so you should vote no based on that fact.

Councillor Thomas asked do you have some experience in this field?

Wayne Hancock said yes, I am a retired telecommunications engineer.

Councillor Thomas asked how far out do you usually begin planning for these towers?

Wayne Hancock said a minimum of eighteen months. There was some discussion regarding moving the tower further back from the current proposed site and I think that would be a good place because they would be able to build a much larger tower further out in the desert but it is obvious to me that they didn't even consider any other site.

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Mayor Miyagishima said I find it hard to believe that any micro-waves won't hurt you; what is your opinion?

Wayne Hancock said my personal opinion is that they will hurt you.

Councillor Silva asked why hasn't there been information and maps provided of alternate sites?

Denise Kirtinau said I go out and search the search ring area to see what parcels are available then I send the possible candidate site information to Verizon. They evaluate the sites and tell me if they will work or not. I don't get a map or any information on the sites that won't work.

Hamdi Aladin said I have emails showing that Mr. Best requested additional site's information and I ran those sites and provided him with the information he requested.

Councillor Sorg asked does Verizon have a master plan that accounts for the growth of Las Cruces?

Hamdi Aladin said we have done our 2013 plan and we are working on the 2014 plan.

Councillor Sorg asked would any of the future site work for this neighborhood?

Hamdi Aladin said no, we are willing to compromise and lower the tower a level.

Councillor Sorg asked would that be an acceptable compromise?

Wayne Hancock said I think I speak for all of the residents; no tower is the right size tower. We believe there are plenty of other places to place a tower.

Mark Cobb said once they are allowed to build a tower on that site then there is no way to prevent other towers from being built there.

Councillor Sorg said it is my understanding that you can't put another tower on that site because there isn't enough room.

Councillor Small asked can this be conditioned to only allow one cell tower?

Cheryl Rodriguez said if it is commercial zoned and adjacent to residential uses, they will be required to go through a SUP so any future tower request for this location will have to go through a separate SUP process. The City encourages co-location so if someone comes in and wants to use the existing tower, then we would look at those on a case by case basis.

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Councillor Small said so, you can't condition this to be the only tower?

Cheryl Rodriguez said I don't know the answer to that question because I don't know what the impact of that condition would have with the Telecommunications Act.

Harry (Pete) Connelly said the issue would be if it was reasonable.

Councillor Small said to me, it would be a reasonable condition. I think Mr. Best outlined two other sites as potential locations for this tower but I believe this site was the highest point.

Wayne Hancock said we found many areas further to the east that were about 60 to 70 feet higher than that site.

Councillor Small said there have been some significant concerns raised about this site being surrounded by residential areas. This is going to service a need but the people it would be servicing are clearly stating that they don't want that service and I think that is something that we have to consider for this proposal. There is also the fear of numerous towers being put up in that area.

Cheryl Rodriguez said in the amended report, Mr. Best does list five potential sites.

Councillor Silva said it seems to me that they have done everything that we have asked of them and I don't see anything that would give us a reason to deny it on a legal level.

Harry (Pete) Connelly said there was a Federal Court case entitled "Western PCS2," the ETZA of the city and county of Santa Fe were in the same type of issue as this one and it was taken to Federal Court. The New Mexico District Court decided that a denial has to be based on substantial evidence.

There is another case out of Kansas regarding cell towers which list eight reasons that you would have to find to deny a cell tower. I would say to turn this down, you would need these items on the record.

Councillor Thomas said it seems to me that we have plenty of reasons to deny this, including the fact that we just weren't given enough information.

Councillor Pedroza said I don't think we have heard enough information to approve this request and there was such an issue with the residents not being notified of the meeting last time. I think we instructed them to have a public hearing with the residents and clearly the notification requirements for that meeting were not met. I think we have more than enough basis to deny this request.

Councillor Silva said if I'm not mistaken, everything falls underneath our Comprehensive Plan and I think we are setting ourselves up for a potential legal case.

Harry (Pete) Connelly said the Albuquerque case dealt with a sector plan and this is a small piece of property so that is not applicable to this case.

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Councillor Small moved to Amend Council Bill No. 12-002; Ordinance No. 2624 to allow only one tower with a height no greater than 60 feet and Councillor Silva Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 12-002; Ordinance No. 2624 to allow only one tower with a height no greater than 60 feet and it FAILED. 2-4-1 Councillor Silva and Councillor Small voted Aye. Councillor Pedroza, Councillor Sorg, Councillor Thomas and Mayor Miyagishima voted Nay. Councillor Connor Abstained.

Councillor Silva called for the Vote of Council Bill No. 12-002; Ordinance No. 2624 .

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 12-002; Ordinance No. 2624 and it FAILED. 1-5-1 Councillor Silva voted Aye. Councillor Small, Councillor Pedroza, Councillor Sorg, Councillor Thomas and Mayor Miyagishima voted Nay. Councillor Connor Abstained.

VIII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

(14) Resolution No. 12-063: A Resolution Approving a Special Use Permit for the Construction of a Commercial Freestanding Communication Structure on 0.25 ± Acres Located South of the Future Extension of Sedona Hills Parkway and East of Pagosa Hills Avenue Adjacent to the Jornada Water Tank; Parcel ID# 02-37615. Submitted by Verticom on Behalf of Verizon Wireless for Area 51 LLC, Property Owner (SUP-11-01).

Councillor Small Moved to Adopt Resolution No. 12-063 and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-063 and it FAILED. 6-0-1 Councillor Silva, Councillor Small, Councillor Pedroza, Councillor Sorg, Councillor Thomas and Mayor Miyagishima voted Nay. Councillor Connor Abstained.

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*(2) Resolution No. 12-055: A Resolution Designating Polling Places and Election Officials for the Regular Municipal Election to be Held in the City of Las Cruces, New Mexico, on Tuesday, November 8, 2011.

Councillor Small Moved to Adopt Resolution No. 12-055 and Councillor Sorg Seconded the motion.

Councillor Silva said there are still members of the public that are confused about the borderlines of the redistricting and I wanted to know if there are any plans to inform the public of their new precincts?

Esther Martinez, City Clerk said this resolution is only to designate the polling places and the election officials for the election. I will publish the information in this resolution with the Las Cruces Sun News and the Bulletin.

Councillor Connor said I don't think it is enough to just publish it in the newspaper. If we are going to publicize it, I think we should post it at all of the polling places.

Esther Martinez said I could send a list of all the polling sites to all the current and previous polling locations and ask them to post it but it will be up to them whether or not they post it. I do

want to make the public aware that the precinct numbers did not change and if anyone has any questions, they can contact my office.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-055 and it was Unanimously APPROVED. 7-0

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*(11) Council Bill No. 12-012; Ordinance No. 2634: An Ordinance Authorizing the Execution and Delivery of a Loan Agreement and Intercept Agreement by and Between the City of Las Cruces (The "Governmental Unit") and the New Mexico Finance Authority, Evidencing a Special, Limited Obligation of the City to Pay a Principal Amount of $950,000, with Interest Thereon, for the Purpose of Purchasing Two Fire Pumpers for Use by the Governmental Unit and Paying a Loan Processing Fee; Providing for the Payment of the Principal and Interest Due under the Loan Agreement Solely from the Pledged State Shared Gross Receipts Tax Revenues Distributed to the City; Providing for the Contingent Distribution of the Pledged Revenues to Be Redirected to the New Mexico Finance Authority or its Assigns for the Payment of Principal and Interest Due on the Loan Agreement Pursuant to an Intercept Agreement; Setting the Maximum Rate of the Loan; Approving the Form and Terms of the Loan Agreement and Intercept Agreement; Ratifying Actions Heretofore Taken; Repealing All Action Inconsistent with this Ordinance; and Authorizing the Taking of Other Actions in Connection with the Execution and Delivery of the Loan Agreement and Intercept Agreement.

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Councillor Thomas Moved to Adopt Council Bill No. 12-012; Ordinance No. 2634 and Councillor Small Seconded the motion.

Councillor Thomas said I didn't understand the expenditures.

Mark Winson, Assistant City Manager said the expenditures are for this fiscal year. We asked for $950,000 but they approved us for $964,250; they increased the amount because of the additional fees that associated with this transaction. I would ask that Council amends this ordinance to reflect the correct amount.

Councillor Thomas Moved to Amend Council Bill No. 12-012; Ordinance No. 2634 to change the loan amount from $950,000 to $964,250 and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 12-012; Ordinance No. 2634 to change the loan amount from $950,000 to $964,250 and it was Unanimously APPROVED. 7-0

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 12-012; Ordinance No. 2634 as Amended and it was Unanimously APPROVED. 7-0

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(15) Resolution No. 12-064: A Resolution Approving a Signalization and Lighting Agreement Between the City of Las Cruces and the New Mexico Department of Transportation for the Installation of Traffic Signals at the Intersections of Engler Road/Elks Road and Engler Road/Del Rey Boulevard; and Roadway Lighting on Engler Road Between Elks Road and Del Rey Boulevard, Project No. D1028, PCN D1028.

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Councillor Connor Moved to Adopt Resolution No. 12-064 and Councillor Small Seconded the motion.

Dan Soriano, Traffic Engineer gave an overhead presentation and said the Engler Road Grade Separation is scheduled to begin early 2012 and 51 street light standards will be installed along Engler Road as well as underpass lighting. There will be two traffic signals installed, one at Del Rey and Engler and the other at Elks and Engler.

Councillor Sorg asked the lighting will be LED; correct?

Dan Soriano said yes.

Councillor Small said it would be good to involve the El Paso Electric energy efficiency person with this project because there might be an opportunity to share some of the cost.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-064 and it was APPROVED. 6-0 Councillor Thomas was Absent.

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(16) Resolution No. 10-11-511: A Resolution Approving a Contract to Woolpert, Inc., of Phoenix, Arizona, in the Amount of $440,620.00 Plus New Mexico Gross Receipts Tax, for the Development of an Electronic Airport Layout Plan (eALP) for the Las Cruces International Airport, Authorizing the Acceptance of a Grant in the Amount of $11,015.00 From the New Mexico Department of Transportation Aviation Division, and Adjusting the FY 2011/2012 Budget.

Councillor Small Moved to Adopt Resolution No. 10-11-511 and Councillor Sorg Seconded the motion.

Lisa Murphy, Airport Manager gave an overhead presentation and said the FAA has established an Airport GIS initiative which will create ALPs in an electronic format and the FAA has selected our airport to be a part of this new initiative. The FAA is providing a grant for 95% of the cost which is $418,589, the New Mexico DOT Aviation Division is providing a grant for 2.5% which is $11,015 and the City will provide a 2.5% match which is $11,016 so the total project amount, including GRT is $440,620.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-11-511 and it was Unanimously APPROVED. 7-0

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(17) Council Bill No. 12-014; Ordinance No. 2636: An Ordinance Approving a Concept Plan and Final Site Plan for a Planned Unit Development (PUD) Known as Dave McTimski Inc. The Subject Property Encompasses 15.503 ± Acres and is Located on the Southwest Corner of Northrise Drive and Roadrunner Parkway; Parcel ID# 02-41024. Submitted by Quantum Engineering Consultants on Behalf of Lord William S & ETAL C/O Randy McMillan, Property Owner (PUD-10-02 & PUD 10-03).

Councillor Small Moved to Adopt Council Bill No. 12-014; Ordinance No. 2636 and Councillor Pedroza Seconded the motion.

Adam Ochoa, Planner gave an overhead presentation and said the property is approximately 15.503 acres and is currently undeveloped. The proposed concept plan will replace a portion of an existing concept plan for a single-family development known as Remington Estates. The proposed PUD will

allow limited commercial, office and multi-family residential uses. On July 26, 2011, the Planning and Zoning Commission recommended approval and there was no public input at the meeting pertaining to this case.

Councillor Sorg said I don't see where the trail is on the map.

Marty Pillar, Developer Representative said the map doesn't show it but it is included in the PUD.

Councillor Sorg asked are the impact fees still going to be assessed on this property?

Brian Denmark, Assistant City Manager said these park impact fees are going to be under our new system which is collected city-wide, not by districts anymore.

Councillor Thomas said I would like to see some connectivity between the two PUDs.

Marty Pillar said there is about a 30-foot elevation difference between the two PUDs so there won't be any connectivity between those areas.

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Councillor Thomas said I would like to see more accommodations for pedestrians.

Marty Pillar said there is a driveway access area to the Good Sam's site and the sidewalks are going to be 5 feet wide.

Councillor Connor asked is there a possibility of having a cell tower in this area?

Marty Pillar said no, cell towers are restricted.

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 12-014; Ordinance No. 2636 and it was Unanimously APPROVED. 7-0

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(18) Council Bill No. 12-015; Ordinance No. 2637: An Ordinance Approving a Concept Plan for a Planned Unit Development (PUD) Known as the Good Samaritan Society Village II. The Subject Property Encompasses 13.223 ± Acres and is Located on the Southwest Corner of Northrise Drive and Roadrunner Parkway; Parcel ID# 02-41025. Submitted by Quantum Engineering Consultants on Behalf of the Evangelical Lutheran Good Samaritan Society, Property Owner (PUD-10-06).

Councillor Small Moved to Adopt Council Bill No. 12-015; Ordinance No. 2637 and Councillor Connor Seconded the motion.

Adam Ochoa, Planner gave an overhead presentation and said this proposed concept plan is the second part of the plan that will also replace a portion of an existing concept plan for a single-family development known as Remington Estates. This will be a senior citizen multi-dwelling development that will offer apartments, town homes, assisted living quarters, nursing care and other related uses. The proposed PUD will permit a maximum of 200 dwelling units on the subject property. On July 26, 2011, the Planning and Zoning Commission recommended approval for the proposed concept plan and final site plan and there was no public input at that meeting pertaining to this proposal.

Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 12-015; Ordinance No. 2637 and it was Unanimously APPROVED. 7-0

DRAFT

IX. BOARD APPOINTMENTS

Mayor Miyagishima appointed Gregory Z. Smith (District 2) and Faith Huston (District 4) to the Art on Loan Program Ad Hoc Committee.

Councillor Small Moved to Approve the Mayor's board appointments of Gregory Z. Smith (District 2) and Faith Huston (District 4) to the Art on Loan Program Ad Hoc Committee and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appointments of Gregory Z. Smith (District 2) and Faith Huston (District 4) to the Art on Loan Program Ad Hoc Committee and it was Unanimously APPROVED. 7-0

Mayor Miyagishima appointed Eugene W. Suttmiller (District 1) to the Capital Improvement Advisory Committee.

Councillor Small Moved to Approve the Mayor's board appointment of Eugene W. Suttmiller (District 1) to the Capital Improvement Advisory Committee and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appointment of Eugene W. Suttmiller (District 1) to the Capital Improvement Advisory Committee and it was Unanimously APPROVED. 7-0

Mayor Miyagishima appointed David Chavez (District 1) to the South Mesquite Design Review Board.

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Councillor Small Moved to Approve the Mayor's board appointment of David Chavez (District 1) to the South Mesquite Design Review Board and Councillor Thomas Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appointment of David Chavez (District 1) to the South Mesquite Design Review Board and it was Unanimously APPROVED. 7-0

X. REVIEW OF PROPOSED ORDINANCE(S)

None given.

XI. GENERAL DISCUSSION

1. MAYOR

Mayor Miyagishima passed.

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2. **CITY COUNCIL**

Councillor Thomas said I would like for us to hear from staff or have someone give a presentation at a work session regarding information on the processes for cell towers and our requirements for notifications.

Robert Garza, City Manager said we can schedule a work session to have staff give Council a presentation on that topic.

Councillor Sorg said I agree with having that as a work session topic.

I'd like to thank everyone who wished me well during my surgery last month.

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Councillor Small passed.

Councillor Pedroza said I attended the La Semilla Summit and it was a very impressive event.

I want to mention that there is another problem with homeless Veterans living in and around the Community of Hope and I think we will need to address that issue.

Councillor Connor passed.

Councillor Silva said it was a great honor to recognize Col. Jacobs this afternoon but there are still many WWII Veterans out there that we need to recognize so please inform us if anyone knows any of them.

This Friday is the Art Ramble at the Downtown Mall from 5:00 to 8:00 p.m.

I think we should look into a participation ordinance to really involve the public.

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3. **CITY MANAGER**
   A. Other items - Information Only.

Robert Garza, City Manager said next Monday is a holiday so the TIDD Board meeting will be held on Tuesday at 1:00 p.m.

Meeting Adjourned at 7:38 p.m.

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