

Regular Meeting
November 7, 2011



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

Regular Meeting

**November 7, 2011
1:00 P.M.**

Council Chambers, City Hall

MEMBERS PRESENT:

STAFF:

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

- Robert Garza, City Manager
- Rusty Babington, Deputy City Attorney
- Linda Lewis, Deputy City Clerk

I. OPENING CEREMONIES

- 25 Mayor Miyagishima called the meeting to order and asked for a moment of silence. Councillor Small
- 26 led the Pledge of Allegiance.
- 28 Hannah Hooper, Indira Sanchez, Garon Pruitt and Sean Hice, students of the Ocate High School
- 29 Choir, sang the National Anthem.
- 31 Presentation of Certificates of Appreciation/Proclamations.
- 33 Mayor Miyagishima and a representative from the Animal Services Center of the Mesilla Valley
- 34 presented the Pet of the Week.
- 36 Mayor Miyagishima presented a Distinguished Service Award to Bishop Ricardo Ramirez.
- 38 Councillor Small presented a Proclamation to Nicole Fuchs and Dart Finch and declared November
- 39 2011 as Runaway Prevention Month.
- 41 Nancy Smith gave a presentation regarding the Roadrunner Food Bank.
- 43 Pamela Angell gave a presentation regarding the Homeless in Las Cruces.

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

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

None given.

III. PUBLIC PARTICIPATION

Emma Murrillo, Member of the Public said I am submitting a map of the routes I use which are not handicap accessible.

Ron Gurley, Member of the Public said I participated in a Statewide Task Force that looked at the decriminalization of the mentally ill in our jail system and the prevention of Federal lawsuits. One of the major recommendations is a Crisis Triage Center which went to Santa Fe but then disappeared and I think we need to put that on our front burner. We also need to consider that in discussing the situations with the homeless, a majority of the homeless are mentally ill so we need to come up with something to include in our Strategic Plan to deal with these issues.

Robert Garza, City Manager said the Crisis Triage Center was included in the Capital Bill but it died in the Session because they ran out of time. I believe it remains a very strong project and it is something that we will hopefully ask them to reconsider this year.

Todd Dixon, Member of the Public said I just want to mention that on Friday, Veterans Day, at 7:30 p.m. at the Las Cruces Event Center which is across from Albertsons, we are putting on a show to raise funds for DVA38 which provides shuttle van services for Veterans to go to the VA Hospital in Albuquerque and El Paso.

Kent Evans, Member of the Public said regarding the Crisis Triage Center, as County Commissioner that was one of my main initiatives so I am going to do everything I can to help with putting that back on.

Russ Warner, Member of the Public said something has to be done now to help address the issues for the homeless and it also needs to be addressed in our Strategic Plan.

1
2 Jim Harbison, Member of the Public said I'd like to thank the Las Cruces Police Department for their
3 support with our Neighborhood Watch Program.

4
5 I also want to say that we don't allow homeless people to camp but we allow people who are
6 protesting to camp in the middle of a City park that is in the middle of town. I don't think it is fair
7 that the protestors are allowed to camp in our parks when we have to pay a \$50 fee to use the park
8 for just half a day.

9
10 Mayor Miyagishima said you don't have to pay a fee to use a park but you do if you want to make
11 sure you have exclusive rights to it for an event like a birthday party.

12
13 Robert Garza, City Manager said one difference is the Community of Hope isn't a City park which
14 is why they aren't allowed to camp there. Our policy does allow for camping in City's parks at a rate
15 of \$12 per night for an RV and \$5 per night for a tent. That policy was put in place mainly because
16 of our all night events so we had to have something in place to allow people to camp in our parks.

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

23
24 Mayor Miyagishima said Item 3 needs to be removed from the Consent Agenda for discussion.

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28 Councillor Connor Moved to Approve the Agenda as Amended and Councillor Thomas Seconded
29 the motion.

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

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38 **V. CITY COUNCIL MINUTES**

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40 *(1) Regular Meeting of October 3, 2011

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VI. RESOLUTIONS AND/OR ORDINANCES FOR CONSENT AGENDA

* (2) Resolution No. 12-074: A Resolution Authorizing the City of Las Cruces to Continue an Agreement with the Rio Grande Council of Governments for Fiscal Year 2011/2012 and to Provide an Annual Membership Fee of \$4,637.00.

* (4) Resolution No. 12-076: A Resolution Authorizing the City of Las Cruces Fire Department to Accept Various Emergency Preparedness Equipment Valued at \$158,795.04 Pursuant to a Grant Funded by the United States Department of Homeland Security, Office of State and Local Government Coordination and Preparedness Through the New Mexico Department of Public Safety, Office of Emergency Management and the Doña Ana County / City of Las Cruces Office of Emergency Management for FY 2009.

* (5) Resolution No. 12-077: A Resolution Authorizing the City of Las Cruces to Accept Awarded Funding on Behalf of the Thomas Branigan Memorial Library From the New Mexico State Library, Grants-in-Aid Program FY 2011/2012 in the Amount of \$8,965.92 With No Match Requirement and to Adjust the FY 2012 Budget.

* (6) Resolution No. 11-12-372: A Resolution Awarding the Contract for the Pella Court Channel Project to Renegade Construction, LLC, of Fairacres, New Mexico, in the Amount of \$46,493.65 Plus \$3,516.08 for New Mexico Gross Receipts Tax. The City Manager is Authorized to Approve Change Orders in an Amount Not to Exceed \$2,324.68, for a Total Project Authorization of \$52,334.41.

* (7) Resolution No. 11-12-384: A Resolution Approving Extension of an Indefinite Cost, Indefinite Quantity Price Agreement for General Engineering Services to Molzen-Corbin & Associates and Bohannon Huston, Inc., Both of Las Cruces, NM; Camp, Dresser, McKee, Inc., Gannett Fleming West, Inc., and AECOM USA, Inc., All of Albuquerque, NM, for Years Four (4) Through Five (5) of a Five (5) Year Term Conditioned Upon Annual Renewals and Pending Approved Budgets.

VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

* (3) Resolution No. 12-075: A Resolution Authorizing the City of Las Cruces, on Behalf of the Fire Department, to Accept an Agreement for Fire Department Services with the New Mexico Spaceport Authority, to Accept Funding for Provision of Firefighter Personnel and Apparatus, to Ratify the Acceptance of the Agreement and Funding by the City

1 Manager, and to Adjust the City of Las Cruces FY 2012 Budget for the Amount of
2 \$18,819.59, With No Match Required.

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4 Councillor Small Moved to Adopt Resolution No. 12-075 and Councillor Sorg Seconded the
5 motion.

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9 Councillor Silva asked are we going to base this unit out of Las Cruces or are they going to be
10 onsite there?

11

12 Chief Brown, LCFD said this event has already occurred and it took place at the Spaceport. We
13 provided 24-hour fire protection at the Spaceport for the 16th thru the 20th because at this point in
14 time they do not have any firefighting personnel.

15

16 Councillor Silva asked why don't we just sign a one-year contract with them?

17

18 Chief Brown said we are responding to the request of the Spaceport and they are in the process of
19 trying to establish an onsite Fire Department so we respond to them on a case by case basis.

20

21 Robert Garza, City Manager said this is to amend the budget to reflect the revenue which is
22 something only the Council can do and we don't know how much that is until the event passes.

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26 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-075 and it
27 Unanimously Approved. 7-0

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31 (8) Resolution No. 12-078: A Resolution Authorizing and Approving Submission of a
32 Completed Application for Financial Assistance and Project Approval to the New Mexico
33 Finance Authority.

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35 Councillor Small Moved to Adopt Resolution No. 12-078 and Councillor Connor Seconded the
36 motion.

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40 Auguie Henry, Grants Administrator gave an overhead presentation and said this is a grant that is
41 being provided by the New Mexico Finance Authority and this funding would allow us to begin the

1 process for economic development partnerships within the TIDD area. We will be able to work on
 2 a Parking Management Plan within the TIDD which would include a Feasibility Study and the
 3 Schematic Design of parking structures. The maximum amount of the grant is \$50,000 but MFA will
 4 be determining the amount of our grant and the City will be responsible for any funding in excess
 5 of the grant amount.

6

7 Councillor Thomas said so, this is only to look at the feasibility of a parking structure; are they
 8 setting that limit or was that our choice?

9

10 Auguie Henry said it is my understanding that direction came from our Administration.

11

12 Councillor Thomas said we also spoke about a plaza.

13

14 Auguie Henry said we had to pick one project.

15

16 Robert Garza, City Manager said this grant application came from our last TIDD Board Meeting and
 17 the bulk of this will be the planning of the parking structure which includes the scope of work and
 18 the parking assessment.

19

20 Councillor Silva said we've already had one parking study done for the Downtown area; is this
 21 parking study for a future relationship with a private company?

22

23 Auguie Henry said I believe that is really what the bottom line is here. We're going to try to get a
 24 model together to outline how the City and private sector can work together.

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28 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-078 and it
 29 Unanimously Approved. 7-0

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33 (9) Resolution No. 12-079: A Resolution Approving a Utility Improvement Funding Agreement
 34 Between Mesa Development Center, Inc. And the City of Las Cruces for Modifications to
 35 the Water System in Midway Avenue Between Stewards Drive and Gasline Road. The
 36 Resolution Authorizes the Mayor to Sign the Agreement on the City's Behalf.

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38 Councillor Small Moved to Adopt Resolution No. 12-079 and Councillor Thomas Seconded the
 39 motion.

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1 David Dollahon, Neighborhood Services Administrator gave an overhead presentation and said we
 2 would actually be building Midway Avenue between Stewards Drive and Gasline Road and it
 3 includes improvements to the street sub-grade, driving surface, curb, gutters and storm drain system.
 4 The water utility provider would be the Mesa Development Center. We can use the CDBG funding
 5 which is Federally funded so it doesn't violate our State Constitution prohibitions for anti-donations.
 6 I did hand out a diagram which is Exhibit A but it wasn't included in your packet.

7
 8 Councillor Silva asked if there is a future purchase or buy-back, how will it be assessed?

9
 10 David Dollahon said at the time of the purchase, should the City or anyone else purchase it, it will
 11 be based on its value at that time. However, we will be compensated at the current amount of the
 12 investment that we make today so roughly the \$31,000. There really is no devaluation of the
 13 improvement.

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 17 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-079 and it
 18 Unanimously Approved. 7-0

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 21
 22 (10) Resolution No. 11-12-346: A Resolution Awarding the Bid for the Midway Avenue
 23 Reconstruction Project to Burn Construction, Inc., of Las Cruces, New Mexico, in the
 24 Amount of \$380,492.00 Plus \$28,774.71 for New Mexico Gross Receipts Tax. The City
 25 Manager is Authorized to Approve Change Orders in an Amount Not to Exceed \$20,832.45,
 26 for a Total Project Authorization of \$430,099.16.

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 28 Councillor Connor Moved to Adopt Resolution No. 11-12-346 and Councillor Sorg Seconded the
 29 motion.

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 33 Mike Johnson, Public Works Director gave an overhead presentation and said this is to award the
 34 bid for the Midway Avenue Reconstruction Project to Burn Construction. This is a neighborhood
 35 residential street and it will include the installation of new sidewalks, drive pads, curb, gutters,
 36 asphalt paving and street lights. There will also be minor utility upgrades to the gas and sanitary
 37 sewer systems. We received four bids for this project and the low bid base came from Burn
 38 Construction Company which was 11% below our engineers estimate and it will take 65 working
 39 days to complete this project.

40
 41 Gabriel Murray, Renegade Construction said I bid for this job which had a Section 3 preference and
 42 I was told that day that I was the only one who had this classification but I didn't get the bid. I was

1 under the impression that my firm was the lowest bidder so I would like it clarified as to why I
2 wasn't selected?

3

4 Robert Garza, City Manager said it is my understanding that our Purchasing Manager Bob Telles
5 reviewed this inquiry and the bids were sealed when they were turned in. Renegade did submit
6 paperwork for Section 3 for that bid preference and Burn Construction did not submit that
7 information with their bid but prior to the award of the contract, they submitted that information
8 which can be applied because they are not changing anything. It was not a requirement to turn in that
9 information at the time of the bid and we need to go by the lowest bid turned in by that date.

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13 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 11-12-346 and it
14 Unanimously Approved. 7-0

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18 (11) Resolution No. 10-11-487: A Resolution Awarding a Contract to Sites Southwest, LLC for
19 Development of a Las Cruces Flood Control Dam Comprehensive Maintenance Plan With
20 and Emphasis on Ecological Maintenance in the Amount of \$167,687.00 Plus \$12,681.33
21 (NMGRT) and an Allowance of \$16,768.70 for a Total Amount of \$197,137.03.

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23 Councillor Connor Moved to Adopt Resolution No. 10-11-487 and Councillor Small Seconded the
24 motion.

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28 Loretta Reyes, Engineering Services Administrator gave an overhead presentation and said this is
29 to award the contract to Sites Southwest for the Las Cruces Control Dam Comprehensive
30 Maintenance Plan. This area consist of 700 acres of flood pool, dam embankment, spillways,
31 diversion channel, inlet areas, outlet tower and the outlet channel and it is the main flood control
32 facility that protects approximately two-thirds of the entire Las Cruces population. We received three
33 proposals for this project and the Selection Advisory Committee reviewed all of them and
34 recommended the award to Sites Southwest. The contract duration will be twelve months and the
35 contract amount is a little bit less than \$200,000. The scope of the project is to integrate standard
36 O & M practices for flood control structures while incorporating vegetation and animal management
37 and to identify if the lack of ecological management is high, medium or low risk with respect to the
38 operation and effectiveness of the Las Cruces Dam.

39

40 Councillor Thomas asked is this something we have to do before we can move forward with our
41 plans for trails in that area?

42

1 Loretta Reyes said this is related to the actual maintenance that we have to do behind the Dam but
2 it could help to give us information on that area when it comes time to do the trails.

3

4 Councillor Thomas asked why was Sites Southwest selected for this project?

5

6 Loretta Reyes said Sites Southwest was one of the three companies that made a proposal for this
7 project and they have a biologist on their staff so based on their proposal we felt they were qualified
8 to address this issue.

9

10 Robert Garza, City Manager said this firm was chosen by the Army Core of Engineers seven or eight
11 years ago to do an Environmental Restoration Plan for the Dam so they have already done several
12 studies on the Dam and are familiar with it.

13

14 Councillor Thomas said I want to make sure that the public will be involved with this from the very
15 beginning.

16

17 Loretta Reyes said yes, we are planning on having several public meetings.

18

19 Councillor Sorg said I will be one of the people who will be watching this very closely and I think
20 it is a big plus to have Sites Southwest on board.

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24 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 10-11-487 and it
25 Unanimously Approved. 7-0

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29 (12) Council Bill No. 12-017; Ordinance No. 2639: An Ordinance Authorizing the Execution and
30 Delivery of a Loan Agreement by and Between the City of Las Cruces, New Mexico (The
31 “City”) and the New Mexico Finance Authority, Evidencing a Special Limited Obligation
32 of the City to Pay a Principal Amount of \$900,000, Together with Interest and
33 Administrative Fees Thereon, for the Purpose of Defraying the Cost of Acquiring Solid
34 Waste Collection Vehicles for the Solid Waste Department and to Fund the Loan Agreement
35 Reserve Account; Providing for the Payment of the Principal of and Interest on the Loan
36 Agreement Solely From the Net System Revenues Received by the City From the Operation
37 of Its Solid Waste System; Approving the Form and Terms of and Other Details Concerning
38 the Loan Agreement; Ratifying Actions Heretofore Taken; Repealing All Action Inconsistent
39 With This Ordinance; and Authorizing the Taking of Other Actions in Connection With the
40 Execution and Delivery of the Loan Agreement.

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1 Councillor Connor Moved to Adopt Council Bill No. 12-017; Ordinance No. 2639 and Councillor
2 Small Seconded the motion.

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6 Duane Brown, Modrall Law Firm said this will need to be amended to change the borrowing amount
7 from \$900,000 to \$1,016,561 and the purpose for the increase is to put in place a cash reserve and
8 to pay the processing fee.

9
10 Mayor Miyagishima said the amount change does not change the spirit of this ordinance so I don't
11 think it needs to be readvertised. Is that correct Rusty?

12
13 Rusty Babington, Deputy City Attorney said yes.
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17 Councillor Connor Moved to Amend Council Bill No. 12-017; Ordinance No. 2639 to change the
18 amount from \$900,000 to \$1,016,561 and Councillor Pedroza Seconded the motion.

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22 Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 12-017; Ordinance
23 No. 2639 to change the amount from \$900,000 to \$1,016,561 and it Unanimously Approved. 7-0

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27 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 12-017; Ordinance
28 No. 2639 as Amended and it Unanimously Approved. 7-0

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32 **VIII. BOARD APPOINTMENTS**

33
34 Mayor Miyagishima appointed Lonnie Hamilton (District 6) to the Capital Improvement Advisory
35 Committee.

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39 Councillor Connor Moved to Approve the Mayor's board appoint of Lonnie Hamilton (District 6)
40 to the Capital Improvement Advisory Committee and Councillor Thomas Seconded the motion.

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2 Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appoint of
3 Lonnie Hamilton (District 6) to the Capital Improvement Advisory Committee and it Unanimously
4 Approved. 7-0

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

9
10 (13) Council Bill No. 12-018; Ordinance No. 2640: An Ordinance Approving a Zone Change
11 from R-1A (Single-Family Medium Density) to REM-C (Single-Family Residential Estate
12 Mobile-Conditional) for 0.98 ± Acres of Land Located at 5452 Santa Cruz Avenue.
13 Submitted by Bob Steven Gilbert, Property Owner (Z2843).

14
15 Mayor Miyagishima and Council agreed to bring this item back.

16
17 (14) Council Bill No. 12-019; Ordinance No. 2641: An Ordinance Approving a Zone Change
18 From R-3/C-2 (Multi-Dwelling Medium Density/Commercial Medium Intensity) to C-2
19 (Commercial Medium Intensity) for 0.464± Acres of Land Located at 130 Madrid Avenue.
20 Submitted by Summit Engineering on Behalf of 1732, LLC, Property Owner (Z2844).

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

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27 **X. GENERAL DISCUSSION**

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29 **1. MAYOR**

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31 Mayor Miyagishima said I want to commend Will Ticknor and his staff for their exhibit at the
32 Museum of Art of paintings of the space exploration of NASA from some very famous artist.

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36 **2. CITY COUNCIL**

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38 Councillor Thomas said some of us attended a summit held by Café and they had discussions about
39 legislation that will help people to avoid foreclosure and it was a very moving event.

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41 I also want to compliment the Las Cruces Police Department for the way they are handling the
42 protestors without any incidents like the ones we are seeing in other cities.

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Councillor Sorg said last weekend the Mayor and I attended a summit regarding early childhood education and it was very informative. I would like for the City to see how we can help with early childhood education because any amount of time and money we spend on children is going to payoff.

Councillor Small said I would like to get an update on the South Main Street reconstruction.

Mike Johnson, Public Works Director said that project is moving along on schedule and there have been no major issues.

Councillor Small said I just want to remind everyone that Wednesday is the grand opening for the Pro Ranch Market.

I attended a Faith and Family summit and it was a great event.

Councillor Pedroza said I am encouraged about the way we are looking at our entire population as it involves the scope of our work and the way we are allowing the Occupy Movement to express themselves.

The Sun News had some very positive articles in the newspaper regarding the Café and the foreclosure issues.

Councillor Connor passed.

Councillor Silva said I think there needs to be a campaign reform to have more transparency and we should look at what other communities do.

I would like to thank staff for all their hard work and they are all doing a very good job.

I would like to thank Mike Johnson for everything he has done for this City and he will be greatly missed when he retires this year.

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3. CITY MANAGER

A. Other items - Information Only.

Robert Garza, City Manager said regarding the occupy camping situation, they have been receiving donations so they do have camping permits for at least the rest of the week. They are being cooperative with us in moving their stuff so we can mow and water the grass in the park.

There will be a Special Meeting on Thursday at 5:00 p.m. to canvass the election results and there will not be a work session next Monday.

Meeting Adjourned at 4:17 p.m.