

ITEM #2
Regular Meeting
December 5, 2011



City Council
of the
City of Las Cruces

Regular Meeting

December 5, 2011

1:00 P.M.

Council Chambers, City Hall

MEMBERS PRESENT:

STAFF:

Mayor Ken Miyagishima
Councillor Miguel Silva, District 1
Councillor Dolores Connor, District 2
Councillor Olga Pedroza, District 3
Councillor Nathan Small, District 4
Councillor Gill Sorg, District 5
Councillor Sharon Thomas, District 6

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

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I. OPENING CEREMONIES

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

Ron Camunez sang the National Anthem.

Presentation of Certificates of Appreciation/Proclamations.

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

Councillor Thomas presented a Proclamation to Deanna Bustamante and declared December 10, 2011 as Human Rights Day.

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.*

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

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4 None given.

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8 **III. PUBLIC PARTICIPATION**

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10 Clay Doyle, Member of the Public said I would like to introduce Ricardo Gonzales who will be
11 replacing me as Vice President of New Mexico Affairs for El Paso Electric.

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13 Ricardo Gonzales, Member of the Public said I was raised in Las Cruces and I am excited to be
14 working with you.

15
16 Clay Doyle said regarding the arctic freeze, El Paso Electric has done everything we could do to
17 winterize our generators so we won't have the same issues as we did last February.

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

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25 Mayor Miyagishima said Item 4 needs to be removed from the Consent Agenda for discussion.

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29 Councillor Silva Moved to Approve the Agenda as Amended and Councillor Small Seconded the
30 motion.

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

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39 **V. CITY COUNCIL MINUTES**

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41 *(1) Regular Meeting of November 7, 2011

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VI. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

* (2) Resolution No. 12-085: A Resolution Establishing Dates for Holiday Observance for City Employees in 2012.

* (3) Resolution No. 12-086: A Resolution Providing for Determination of Reasonable Notice of Meetings of the City Council and Its Boards and Committees.

* (5) Resolution No. 11-12-409: A Resolution Approving an Indefinite Cost and Indefinite Quantity Price Agreement to Purchase Commercial Property Insurance Package (To Include: Contractor's Equipment & Auto/fire Physical Damage, Crime, Boiler & Machinery, and Employee Dishonesty) and Excess Workers' Compensation; Through the City Contracted Broker, AON Risk Services for a Term of up to Five (5) Years Conditioned upon Annual Renewals and Approved Budgets.

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VII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

* (4) Resolution No. 12-087: A Resolution to Adjust the City's FY 12 Budget to Correctly Reflect Las Cruces Police Department Balances for the FY 10 and FY 11 Bureau of Justice Assistance Project Safe Neighborhood Program Funds.

Councillor Small Moved to Adopt Resolution No. 12-087 and Councillor Thomas Seconded the motion.

Councillor Silva said I don't understand the accounting process for this item. As I understand it, we booked it under the wrong line item but it appears it was increased from \$8,000 to \$18,000.

Nicole Williams, Grant Writer said there was some confusion with the carryover amount of \$10,000. It appeared there was only \$8,000 which is the new grant amount but after a closer review we found there was also a carryover of last year's grant in the amount of \$10,000.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-087 and it was Unanimously Approved. 7-0

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(6) Resolution No. 12-088: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction for the Issuance of a Small Brewer Off-Site Liquor License for on Premise Consumption and Package Sales to Central Tavern, LLC D/B/A Mimbres Valley Brewing Co., at 915 University Avenue, Building 985, Suite 1B, Las Cruces, New Mexico. Such Approval Will Allow the Applicant to Proceed With the Application Process.

Councillor Thomas Moved to Adopt Resolution No. 12-088 and Councillor Small Seconded the motion.

Harry (Pete) Connelly, City Attorney said this is located across from the University and it is within 300 feet of a functional part of the University which is why a waiver is required. We have not received any adverse comments from the public regarding this issue but we did receive favorable comments from staff.

Councillor Smith said this is in my District and I think this would be beneficial for that area.

Councillor Silva said the application states it is 442 feet from the University but the first property line is 85 feet so it doesn't seem that what they stated in the comments is the same as what they stated on their application.

Harry (Pete) Connelly said the Statute requires a measurement from property line to property line; the New Mexico Supreme Court raised that question but the Department of Alcohol basically takes the functional approach so the property line makes no difference, it is what is near it that counts.

Councillor Silva said it concerns me that there is no history on this business.

Harry (Pete) Connelly said the company has applied for their business license; however, they do not need a business license until the business is approved to go into the store. They applied for their license on Friday and it doesn't look like there are any problems so it should be forthcoming quickly.

Councillor Silva said they are from Deming so do they have any history there?

Harry (Pete) Connelly said they do have a liquor license in Deming which is shown on the application.

Councillor Silva asked have they had any violations?

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2 Harry (Pete) Connelly said no.

3

4 Councillor Silva said it was brought to my attention from some of the residents in that area that they
5 have concerns regarding the traffic. University and Espina should be able to handle that traffic but
6 are there any issues with it?

7

8 Harry (Pete) Connelly said no, there are no projected or foreseen problems with the traffic in that
9 area.

10

11 Councillor Silva said there are also concerns with the packaged liquor; how much of the business's
12 success is based on the packaged liquor element?

13

14 Harry (Pete) Connelly said the package sales are only concerning the items that the brewery makes;
15 they are not allowed to sell hard liquor or anyone else's products. This item is only for the waiver
16 so we shouldn't discuss anything else except the waiver. We can discuss the other issues during the
17 public hearing.

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21 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-088 and it was
22 Unanimously Approved. 7-0

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26 (7) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 12-089;**
27 **A PUBLIC HEARING MUST BE HELD:**

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29 Mayor Miyagishima opened the Public Hearing for Resolution No. 12-089 and asked is there anyone
30 who wishes to speak against this item?

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32 Councillor Silva asked how much success is based on the package of liquor?

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34 Brian Reeding, Owner said packing is only about 5% of our business in Deming.

35

36 Councillor Silva asked would it be possible to eliminate that portion?

37

38 Brian Reeding said you can't eliminate it from the license because that is the way it is issued.

39

40 Councillor Silva asked would you consider eliminating it?

41

1 Brian Reeding, said we could consider it if it is a big factor of getting our license but it is part of our
2 business.

3

4 Mayor Miyagishima said the insurance will probably put a cap on how much you sell but I'm not
5 even sure if we can put a condition on it.

6

7 Councillor Silva said these were just questions that were brought to me.

8

9 Robert Garza, City Manager asked do we have the ability to put conditions on it?

10

11 Harry (Pete) Connelly said we do not.

12

13 Bob Butler, Member of the Public said there are issues with parking in that area.

14

15 Kerry (inaudible), Member of the Public said we built this plaza and it is my understanding that there
16 is a portion of an apartment complex that they plan on demolishing to increase the parking area. This
17 is the type of business that Council wanted in this area at the time we were constructing it.

18

19 Councillor Thomas said most businesses in that area are open during the day and this would be more
20 into the night so that will help with the parking issues.

21

22 Councillor Small said I see this as a positive step forward for this area.

23

24 Mayor Miyagishima closed the Public Hearing.

25

26 Resolution No. 12-089: A Resolution Approving the Issuance of a Small Brewer Off-Site
27 Liquor License for on Premise Consumption and Package Sales to Central Tavern, LLC
28 D/B/A Mimbres Valley Brewing Co., at 915 University Avenue, Building 985, Suite 1B, Las
29 Cruces, New Mexico.

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31 Councillor Thomas Moved to Adopt Resolution No. 12-089 and Councillor Sorg Seconded the
32 motion.

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36 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-089 and it was
37 Unanimously Approved. 7-0

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41 (8) Resolution No. 12-090: A Resolution Approving the Issuance of a Waiver of the
42 Church/School Distance Restriction for the Issuance of a Wine Grower Off-Site Liquor

1 License for on Premise Consumption and Package Sales to Central Tavern, LLC D/B/A
2 Mimbres Valley Brewing Co., at 915 University Avenue, Building 985, Suite 1B, Las
3 Cruces, New Mexico. Such Approval Will Allow the Applicant to Proceed with the
4 Application Process.

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6 Councillor Thomas Moved to Adopt Resolution No. 12-090 and Councillor Sorg Seconded the
7 motion.

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11 Harry (Pete) Connelly, City Attorney said this is right next door to the first unit at the same address
12 as the prior item so all the same comments apply.

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14 Councillor Smith said I am encouraged to see this moving forward and I hope responsible drinking
15 is always encouraged and enforced.

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19 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-090 and it was
20 Unanimously Approved. 7-0

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24 (9) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 12-091;**
25 **A PUBLIC HEARING MUST BE HELD:**

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27 Mayor Miyagishima opened the Public Hearing for Resolution No. 12-091 and asked is there anyone
28 who wishes to speak against this item?

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30 None given.

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32 Mayor Miyagishima closed the Public Hearing.

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34 Resolution No. 12-091: A Resolution Approving the Issuance of a Wine Grower Off-Site
35 Liquor License for on Premise Consumption and Package Sales to Central Tavern, LLC
36 D/B/A Mimbres Valley Brewing Co., at 915 University Avenue, Building 985, Suite 1B, Las
37 Cruces, New Mexico.

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39 Councillor Small Moved to Adopt Resolution No. 12-091 and Councillor Thomas Seconded the
40 motion.

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2 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-091 and it was
3 Unanimously Approved. 7-0

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7 (10) Resolution No. 12-092: A Resolution Approving a Reconstruction Project and Exceptions
8 to the City's Home Rehabilitation Handbook for the Residence Located at 1305 Roosevelt
9 Street.

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11 Councillor Small Moved to Adopt Resolution No. 12-092 and Councillor Thomas Seconded the
12 motion.

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16 Ray Sartin, Home Rehabilitation Coordinator gave an overhead presentation and said this is for the
17 residence located at 1305 Roosevelt and it is owned by a family of four with a household annual
18 income of \$30,850.51. The applicant qualifies for a grant up to \$17,000 and a deferred loan payment
19 loan of \$40,000. The program funding is limited to \$57,000 and there is extensive repairs needed
20 to the home so it warrants demolition and reconstruction. We are requesting an exception to the
21 limited amount of \$57,000 to provide approximately \$155,000 for a substantial rehabilitation, an
22 exception to allow the applicant a loan-to-value ratio of 115%, an exception to the maximum grant
23 limit of \$17,000 to provide a \$20,169.53 grant to complete the rehabilitation and an exception
24 allowing a forgiveness rate of \$5,000 per year to allow the applicant to gain back equity in a more
25 timely fashion.

26

27 Mayor Miyagishima asked how many square feet is this house?

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29 Ray Sartin said it will be approximately 1500 square feet and it'll be a four bedroom home.

30

31 Councillor Smith said I drove by this house and it is clearly the house with the most need in this
32 neighborhood.

33

34 Alfonso Archuleta, Member of the Public said there are also issues with the gas lines under some
35 of these types of homes so that is something else you will need to look at in these situations.

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39 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-092 and it was
40 Unanimously Approved. 7-0

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VIII. BOARD APPOINTMENTS

Mayor Miyagishima appointed Mark Bleiweiss (District 2) to the Art on Loan Ad Hoc Committee.

Councillor Thomas Moved to Approve the Mayor’s Board Appointment of Mark Bleiweiss (District 2) to the Art on Loan Ad Hoc Committee and Councillor Smith Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor’s Board Appointment of Mark Bleiweiss (District 2) to the Art on Loan Ad Hoc Committee and it was Unanimously Approved. 7-0

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Mayor Miyagishima appointed Art Jiron to the Mesilla Valley Public Housing Authority.

Councillor Thomas Moved to Approve the Mayor’s Board Appointment of Art Jiron to the Mesilla Valley Public Housing Authority and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor’s Board Appointment of Art Jiron to the Mesilla Valley Public Housing Authority and it was Unanimously Approved. 7-0

Mayor Miyagishima appointed Barry K. Flesher to the Airport Advisory Board.

Councillor Thomas Moved to Approve the Mayor’s Board Appointment of Barry K. Flesher to the Airport Advisory Board and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor’s Board Appointment of Barry K. Flesher to the Airport Advisory Board and it was Unanimously Approved. 7-0

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IX. REVIEW OF PROPOSED ORDINANCE(S)

None given.

X. GENERAL DISCUSSION

1. Mayor

Mayor Miyagishima said regarding boards, I need to speak with MVEDA about expanding their board because a couple of Councillors want to serve on that board. You should have received a handout listing all the boards and I need you to look it over and let me know if you still want to serve on the boards that you are currently on.

Esther Martinez, City Clerk said the Councillors that didn't run during this past election are still on their current boards. The list that I sent out is only for the ones that participated in this past election because they will need to be reappointed to those boards or other boards. The boards that Councillor Connor was previously on will need to be filled by someone.

2. City Council

Councillor Thomas said some of us met to discuss setting up a Neighborhood Summit and we are tentatively looking at February 11th. We are also generating a list of topics that people will generally be interested in so I'm asking if it is okay to send that list to all the Councillors?

Mayor Miyagishima said it might be better if you give it to the clerk and she can send out.

Councillor Thomas said I'd like to thank Wayne Hancock for volunteering to organize the Neighborhood Summit.

Regarding the HUD grant, we receive \$2,800,000 and I want to ask if part of this grant requires that this Council appoints someone to the Regional Leadership Committee, I would like to be appointed.

Robert Garza said if we can do it administratively then that's how we will do it otherwise we will bring forward a resolution.

Councillor Thomas said there is an MPO Leadership meeting on Wednesday in Council Chambers.

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Councillor Sorg said I was requested by the Rate Advisory Committee to encourage residents to get involved with the rate cases for the utilities so I will be passing on the meeting information as they are set.

Councillor Silva asked so are you going to have a meeting?

Councillor Sorg said I won't be having a meeting it will be the Rate Committee's meeting but we will advertise for their meetings.

Robert Garza, City Manager said all the Councillors should keep in mind that you are the appellant body for this rate case so getting involved and attending meetings could be problematic.

Councillor Thomas asked is it okay to inform people of the meetings?

Robert Garza said yes, just don't share your thoughts.

DRAFT

Councillor Small said to follow up on a request made by the Housing Authority regarding the replacement of primarily utility infrastructure in the Vista Robledos Housing Subdivision, it is a really exciting project that was recently approved by City Council for a major rehab and redo. This will bring market rates in addition to subsidized units there on the property.

There has been some interest from some of our constituents regarding the Elephant Butte District and cooperative projects. There are some issues between us and I think to open up the dialog we could have that as an item for discussion at one of our work sessions.

I think that as we look for better ways to serve our citizens we should look at getting the Teen Advisory Board up and running again.

It has been very exciting to see that we have received funding for Burn Lake and that it has become a priority for our community.

I would like to get an update and for us to keep moving forward with the Community of Hope issue.

Robert Garza said we are working on long term and short term solutions. There is a Child Crisis Center located at the campus of the Community of Hope and we are thinking about relocating that center somewhere else and using that space as a housing expansion. Regarding the short term, we are assessing our camping codes and standards but meanwhile we are allowing them to continue to camp in that area.

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2 Councillor Small said it is good to see that we are working on a short term and long term solution
3 to this issue.

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7 Councillor Pedroza said I appreciate the City's response to the needs of the Community of Hope and
8 the accommodations that we've made for the Occupy Las Cruces group.

9

10 On December 14th at 7:15 p.m. at the Allen Theater in the Mesilla Valley Mall, there will be a
11 showing of the documentary film that was done by Adrian Guzman

12

13 On December 6th at 8:00 a.m. there will be walks for 50 and over at Young Park but it may be
14 postponed due to the weather.

15

16 There is a symposium celebrating Human Rights Day this Saturday at the Albert Newman Center
17 from 10:00 a.m. to 12:00 p.m.

18

19 Regarding the Rate Advisory Committee, I offered to have Jessica arrange for a school in the district.

20

21 Robert Garza, City Manager said I would encourage you to have them work through the Utilities
22 Department staff.

23

24 Councillor Pedroza said I am interested in the Garden Project for the schools and I would urge us
25 to hire someone to replace Tom Schuster as our Sustainability Officer.

26

27 Brian Denmark said we have already gone through the application process and City staff will be
28 making a recommendation within the next few days.

29

30 Councillor Pedroza said this Wednesday at 1:30 p.m. two members of the Garden and myself will
31 visit Sierra Middle School to view their Garden Project.

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35 Councillor Smith said in the Business section of the Sun News it points out that Virgin Galactic is
36 moving into a green building that has an LEED platinum status.

37

38 I have had conversations with Councillor Small and Commissioner Garrett regarding our old county
39 court house and we are hoping that whatever issues the owner has can be resolved so that project can
40 move forward.

41

42 I am working with a number of folks on an adobe theme for Las Cruces. I think it is important for
43 the Native people to return to their traditional homeland.

1 I want to remind everyone that the Centennial parade is going to be on January 7th and the deadline
2 for participation is December 15th.

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6 Councillor Silva said regarding the list of boards, I didn't see an appointment for the Chamber
7 Representative for the Chamber of Commerce so I'd like to represent the Council but I'm not sure
8 how we go about it.

9

10 I'd like some clarification regarding the Municipal Judge, I heard we were going to make the
11 appointment based on the need and then make the appointment.

12

13 Robert Garza, City Manager said we have asked the Presiding Judge Melissa Miller to advise us of
14 the need, desire and intent to fill that position. She did send us some written communication during
15 the last week stating that she did want that position filled so the Council can proceed with that
16 process. The Mayor needs to appoint three Councillors to sit on an interview panel because
17 ultimately it will be the Council's decision.

18

19 Councillor Silva said I would be interested in sitting on that interview committee.

20

21 Mayor Miyagishima said Councillor Smith, Councillor Silva, Councillor Pedroza and I think it
22 would be good to include the Chief of Police and our City Attorney. So, those five people will sit
23 on the board and make a recommendation to Council.

24

25 Robert Garza said we can either have you review the applicants that have previously expressed an
26 interest or we can advertise again.

27

28 Mayor Miyagishima said we can call them to see if they are still interested and do a short posting.
29 We can get it down to about three applicants then we'll go from there.

30

31 Councillor Silva said regarding campaign finance reporting, it is my understanding that currently we
32 report fifteen days before and thirty days after and I don't know if this is sufficient enough. It would
33 be nice to heighten the transparency and integrity to the process because there have been past
34 candidates who maintained a banking account for about four years and there was a candidate who
35 had about \$28,000 in their account. I think we need to discuss this issue in one of our work shops
36 because I think there needs to be more frequent reporting by the candidates. It is my understanding
37 that staff has already initiated process but I wanted to provide my input.

38

39 Mayor Miyagishima said we can include that item in our February work session.

40

41 Councillor Silva said I would like a status update on Walnut and Griggs.

42

43 Jorge Garcia, Utilities Director said we still need about four to five weeks of work at that

1 intersection. The whole intersection had to be taken out for the installation of the lines.
2
3 Councillor Silva said I would like for staff to look at why Las Cruces Street is shut off during the
4 Farmers Market and if it could be left open because it causes problems for people who live in that
5 area.
6
7 Mayor Miyagishima said I think the main reason it is closed during that time is for safety reasons.
8
9 Robert Garza said we can look at it and see if we can find a good solution.
10
11 Councillor Silva said regarding SNAP which is the food stamp program, we don't accept food
12 stamps at the Farmers Market but there are 29 other farmers markets that do so I think we should
13 look into that and see if we can integrate that into our Farmers Market.
14
15 Robert Garza said we can look at it but it's not a City ran Market, it is a private market so we're not
16 the ones collecting out there.
17
18 Councillor Silva said I also think that we really need to capitalize on the fact that they are the number
19 one market so I think we should put billboards around the city stating that fact.
20
21 Councillor Sorg said there is a billboard on Picacho that states we are the number one market.
22
23 Mayor Miyagishima said I think Councillor Silva is thinking of it as more of a seal to be placed on
24 billboards and such.
25
26 Councillor Silva said yes, I think that is one of the best marketing tools we have right now and we
27 need to capitalize on it.
28
29 I have been working on promoting this Business Day one day forum and I spoke with Mr. Chavez
30 with the Realtors Association, with Mr. Chavarria with the Homebuilders Association, with Mr.
31 Munoz with the Hispanic Chamber of Commerce and we'll probably be meeting within the next
32 couple of weeks to have a brainstorm session.
33
34 Regarding the Las Cruces Country Club, there have been a lot of rumors floating around as to
35 whether it is for sale or not so I would like for Council to give staff the green light to get an update
36 on its status and give us an update sometime in February.
37
38 Mayor Miyagishima said we can't direct staff today but we can put a resolution together for our next
39 Council meeting to give them that direction.
40
41 Councillor Silva said I won't be attending next week's meeting because I will be attending the events
42 in Tortugas.
43

1 I would like to thank Fire Chief Brown and Police Chief Williams for conducting a neighborhood
2 meeting last week in the Mesquite District to address the fires that have been started in that area.

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6 3. City Manager

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8 Robert Garza, City Manager said the weather is hitting us pretty hard today and there will be
9 extremely icy roads so the Las Cruces Public Schools are having a delayed start and I intend to
10 delay our start of work as well tomorrow until 10:00 a.m.

11

12 Sun Edison is asking for us to do a letter of support to the Legislator and I thought it would be
13 more appropriate if it came from the Mayor to state we think there should be a rate structure in
14 place for solar. I have already drafted a letter for the Mayor to sign but I wanted everyone to be
15 aware of it.

16

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19 Meeting Adjourned at 3:05 p.m.

DRAFT