

ITEM #1

Regular Meeting  
February 21, 2012



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

**Regular Meeting**

**February 21, 2012  
1:00 P.M.**

**Council Chambers, City Hall**

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**MEMBERS PRESENT:**

**STAFF:**

Mayor Ken Miyagishima  
Councillor Miguel Silva, District 1  
Councillor Greg Smith, 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

DRAFT

**I. OPENING CEREMONIES**

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

Councillor Smith sang a song in recognition of National African-American History Month.

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.

Mayor Miyagishima presented a Certificate of Recognition to Dr. Boston and James Hall with the NMSU Athletic Department.

Councillor Small presented a Proclamation to Tim "Doc" Acklin and declared March 2012 as Athletic Training Month.

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

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

7  
 8 Mayor Miyagishima said I will be abstaining from Item 17 so Mayor Pro-tem will run the meeting  
 9 during that item.

10

11

12

13 **III. PUBLIC PARTICIPATION**

14

15 Lonnie Cline, Member of the Public said I am a Conductor for the Las Cruces Symphony Orchestra.  
 16 This year is the 100<sup>th</sup> Anniversary of our Statehood and I wanted to do something with the Orchestra  
 17 to celebrate this event. A famous composer named Bill McLaughlin has written a piece especially  
 18 for the Symphony for our Statehood and I would like the City to be a part of this special project.

19

20 Mayor Miyagishima said you can just send me an email to let us know how you'd like for us to  
 21 participate.

22

23 Councillor Silva said Mr. McLaughlin is a great composer and I would recommend that when he  
 24 comes that we present him with a proclamation.

25

26 Erika Graf-Webster, Member of the Public said I represent the League of Women Voters of Greater  
 27 Las Cruces and I'd like to request the appointment of an ad-hoc committee to deal with municipal  
 28 campaign financing guidelines. We were invited by Councillor Silva to conduct a study involving  
 29 campaign financing for the Las Cruces municipal elections. The objective of this study is to develop  
 30 a set of recommendations for guidelines that would lead to transparency. The scope of work would  
 31 involve reviewing current campaign finance guidelines, research other municipalities' campaign  
 32 finance guidelines, research the best practices for announcing a candidacy and the appropriate  
 33 practices thereafter, ensuring adequate timely financial reporting and enforcement of adopted  
 34 financial guidelines for internal accountability, identifying any other issues that would strengthen  
 35 the current campaign finance guidelines and a final report of the review results and recommendations  
 36 would be presented to the Mayor, City Council and the City Manager. The work would be  
 37 undertaken by committee members as soon as the appointments are made by the Mayor and the City  
 38 Council. The work may conclude at the earliest convenience of the committee but no later than  
 39 December 31, 2012. It is proposed that the committee be composed of myself representing the  
 40 League of Women Voters, Alex Burr representing the Southern New Mexico Chapter of Common  
 41 Cause, Professor Daniel Schueller representing New Mexico State, Mary Tucker who was a former

1 member of the House of Representatives and we would request one other former elected official and  
2 two representatives from the local media. We would also request that the members would have the  
3 assistance of the City Clerk and the City Attorney.

4  
5 Mayor Miyagishima said that looks like a great committee to put together and we will perhaps put  
6 it as a work session item or an actual action item for a future meeting because we can't address it  
7 today.

8  
9 Councillor Small said I also endorse this idea and I would recommend that Esther Martinez, the City  
10 Clerk, be involved with this committee. I would suggest that we have this as a work session item so  
11 we can get this out to the public then bring forward a resolution.

12  
13 Robert Garza, City Manager said staff has already begun working on these issues and the City  
14 Attorney has already given me a preliminary report regarding all the things that they feel need to be  
15 addressed in this process. I would recommend that we do put this on our work session schedule very  
16 quickly and then follow it up with a resolution.

17  
18 Councillor Silva said I think this will benefit the entire community and I agree with the time frame  
19 because we do have an election coming up next year.

20  
21 Ron Camuñez, Member of the Public said due to the recent accidents on Highway 70, is Council  
22 planning any kind of resolution to the State of New Mexico since it is a State highway but it is in the  
23 city limits, asking them to do whatever safety features are necessary to make it a safer roadway?

24  
25 Robert Garza said NMDOT already has a funded project to put in jersey barriers and we are  
26 continuing to work with them on these issues.

27  
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29

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

33  
34 Mayor Miyagishima said Item 15 needs to be moved up to be heard prior to Item 9 and Item 5 needs  
35 to be removed from the Consent Agenda for discussion.

36  
37 -----  
38

39 Councillor Small Moved to Approve the Agenda as Amended and Councillor Thomas Seconded the  
40 motion.

41  
42 -----

1  
2 Mayor Miyagishima called for the roll on the Motion to Approve the Agenda as Amended and it was  
3 Unanimously Approved. 7-0  
4

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6

7 **V. CITY COUNCIL MINUTES**

8  
9 \*(1) Regular Meeting of February 6, 2012  
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13 **VI. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA**

14  
15 \*(2) Resolution No. 12-140: A Resolution to Approve the Continued Investment of a Portion of  
16 the Proceeds of the Prepaid Lease of the Telshor Facility in the Equity Pools of the State  
17 Investment Council.

18  
19 \*(3) Resolution No. 12-141: A Resolution Authorizing the City of Las Cruces to Accept  
20 Awarded Funding on Behalf of the Thomas Branigan Memorial Library from the New  
21 Mexico State Library, 2010 General Obligation Bond Appropriation in the Amount of  
22 \$162,941.46 with No Match Requirement, to Ratify the City Manager's Signature on the  
23 Agreement, and to Adjust the FY 2012 Budget.

24  
25 \*(4) Resolution No. 12-142: A Resolution Approving an Agreement for the Dedication and  
26 Development of a Portion of Mesa Grande Drive.

27  
28 \*(6) Resolution No. 11-12-404: A Resolution Approving an Indefinite Quantity, Indefinite Cost  
29 Contract for Vector and Pest Control Services Price Agreement Awarded for Entomology  
30 Consultants, LLC of Las Cruces, NM for a Four (4) Year Term Conditioned Upon Annual  
31 Renewals and Pending Approved Budgets.

32  
33 \*(7) Council Bill No. 12-025; Ordinance No. 2647: An Ordinance Approving a Zone Change  
34 from R-4 (Multi-Dwelling High Density & Limited Retail and Office) to C-1 (Commercial  
35 Low Intensity) for Five (5) Distinct Properties Located at 204-232 N. Campo Street, 330 E.  
36 Las Cruces Avenue and 313 E. Organ Avenue. The Zone Change Request Includes One  
37 Variance for a Numerical Reduction of 5-Foot to the Minimum Required 5-Foot Side Yard  
38 Setback. Submitted by Leslie K. Skaggs, Property Owner (Z2845).

39  
40 \*(8) Council Bill No. 12-027; Ordinance No. 2649: An Ordinance Approving a Zone Change  
41 From H (Holding) to R-3 (Multi-Dwelling Medium Density) for a 9.00 ± Acre Parcel  
42 Located on the West Side of Jornada Drive, 1,025 ± Feet North of Its Intersection With

1 Peachtree Hills Road Submitted by Pillar Engineering LLC on Behalf of Amani LLC,  
2 Property Owner (Z2849).

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

7

8 \*(5) Resolution No. 12-143: A Resolution Adopting an Updated Disadvantaged Business  
9 Enterprise (DBE) Program for the City of Las Cruces.

10

11 Councillor Silva Moved to Adopt Resolution No. 12-143 and Councillor Small Seconded the  
12 motion.

13

14

15

16 David Dollahon, Chief Planning Administrator gave an overhead presentation and said some of the  
17 updated components are to designate Lisa Murphy as the DBE Liaison Officer, designating Brian  
18 Denmark as the Good Faith Effort Reconsideration Official, to implement increased monitoring and  
19 reporting requirements, implement the local small business utilization requirements as called for in  
20 the updated federal regulations, develop the DBE page on the City's website and update and to  
21 simplify the required procurement forms for DBE related procurement opportunities.

22

23 Councillor Silva said this initially was passed in 2009 and at that time I proposed that we expand this  
24 program; so, again at this time I am proposing that we expand this program because as it is currently  
25 written it deals only with transportation type grants. I think the DBE program would be much more  
26 beneficial to the entire City to show the City is trying to work with disadvantaged businesses.

27

28 David Dollahon said one of the things that we've done at the procurement level through recent  
29 amendments is a greater outreach to small businesses.

30

31 Councillor Silva said we should state that we are here to help disadvantaged businesses and  
32 transportation is only one component of it.

33

34

35

36 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-143 and it was  
37 Unanimously Approved. 7-0

38

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40

41 15) Resolution No. 12-150: A Resolution Approving the Parks and Recreation Department  
42 2012/2013 Fees and Charges/Facility Use Policy and Repealing Resolution 11-215.

1  
2 Councillor Small Moved to Adopt Resolution No. 12-150 and Councillor Thomas Seconded the  
3 motion.

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7 Mark Johnston, Parks and Recreation Director gave an overhead presentation and said we have done  
8 a lot of clean-up in our policies section and the Parks and Recreation Board has already gone through  
9 the updated policy. Over the past year, staff has solicited input and comments from the public and  
10 several of the public suggestions are addressed in this new policy. We have defined age requirements  
11 for all facilities, identified how to become a sponsor, introduced a payment plan option, inserted a  
12 section defining Seniors, inserted language to better define the insurance requirements, defined  
13 Downtown/Main Street parking lot use requests and proposed a flat fee for mobile vendors and  
14 concessions. We have also included a section outlining the Community Gardening process, added  
15 the Walk of Honor Brick program, modified the language for advertising opportunities, introduced  
16 activity/sports camps, added gym rental to meet customer demands and addressed camping concerns.  
17 We've proposed a fee increase of one dollar per day for After School Programs to achieve recovery  
18 goals, proposed a minor increase for private swimming lessons, created a pro-rated fee for late  
19 registration, developed a payment plan for programs, added categories for sports tournaments and  
20 increased costs associated with delivering Red Cross training, CPR and first aid training.

21  
22 Councillor Small said in terms of the deadline of February 28<sup>th</sup> for the gardening; would that be in  
23 effect this year because isn't that a little early?

24  
25 Mark Johnston said the deadline is an artificial date. We are going to be doing outreach and we  
26 won't be closing it until it is full.

27  
28 Councillor Small asked what are the camping concerns?

29  
30 Mark Johnston said the policy stated that you could pay five dollars per tent and ten dollars per RV  
31 and you could camp in park areas which that was written to be in association with our special events.  
32 Now we are tightening up the language to state that it is only for up to seven days and it is only to  
33 be in association with special events.

34  
35 Councillor Pedroza said I have received a number of emails that have raised some serious concerns  
36 for me. One of the concerns is whether or not these changes would violate the Right of Freedom of  
37 Expression. I have a letter from Peter Osto, who is an attorney, and it states that he would urge the  
38 Council not to pass any new restrictions because it is almost guaranteed to be a litigation magnet.  
39 I have reviewed the Park and Rec policies from 2008 to present and this is the first time that the  
40 word "occupy" is used and that bothers me.

41  
42 Councillor Sorg said regarding the swimming pool fees, our fees are higher than Albuquerque's fees  
43 and I would like to know why?

1

2 Mark Johnston said our cost recovery is set by Council and Council has set a cost recovery goal of  
3 33% of operations for our aquatics which we have not met that goal but we are getting closer to it.

4

5 Councillor Smith said I do want to congratulate the City on the recent Occupy protest camp situation  
6 because I believe a lot of things could of been handled badly but they were not. We don't expect our  
7 parks to have to deal with political protest and I think that is why we find ourselves where we are  
8 today. I would like to suggest that we look at opportunities that we could offer for protesting.

9

10 Councillor Thomas said I agree with Councillor Smith. I think the issue is where do people have the  
11 right to assemble instead of just camping issues.

12

13 Councillor Small said I think the only other time camping has been an issue is with the Community  
14 of Hope but in both cases there were very few problems so I'm not too worried about setting  
15 camping time limits as long as there are times set aside for park maintenance.

16

17 Councillor Pedroza said I think the Parks and Recreation does need to have a review of their fees  
18 which I don't have a problem with that but would it be possible to remove the sections that might  
19 infringe on peoples Right to Assembly and Right to Freedom of Speech?

20

21 Councillor Sorg said I just want to say that I can't support this resolution as it is currently written.

22

23 Mayor Miyagishima said I don't believe that this proposal would infringe on people's Rights. There  
24 has to be a balance because if everyone decided to camp in all of our parks then we would get  
25 complaints for other residents that their children wouldn't be able to play in the parks so we need  
26 to provide for the needs of all of our residents.

27

28 Harry (Pete) Connelly, City Attorney said the City has a duty to allow people to exercise their First  
29 Amendment Right; however, we must also remember that the First Amendment Right is not an  
30 absolute Right because the Supreme Court has stated "the First Amendment does not guarantee the  
31 right to communicate one's views at all times and places or in any manner in which it may be  
32 desired". In this particular instance the regulation that is being proposed fits within the  
33 reasonableness that the City may regulate the use of it's parks without violation of the Right of Free  
34 Speech. Under the regulation as proposed, a person could protest in the park so long as the park is  
35 open and so long as it does not conflict with the intent of things like soccer games. The issue here  
36 is if you will allow or not allow camping in a park which the answer is yes, for a reasonable amount  
37 of time. So, the lack of camping is not a violation of the First Amendment. Councillor Pedroza said  
38 this might open us up for litigation but anything Council does subjects us to litigation. In our  
39 opinion, this is a reasonable regulation and in our opinion it does not violate the First Amendment.

40

41 Councillor Pedroza said I don't think you are taking into consideration the fundamental nature of the  
42 Right.

43

1 Harry (Pete) Connelly said we have looked into the issue of the Government's interest in the area  
2 and the Supreme Court of the United States has upheld a wide range of government interest to justify  
3 a time and place for the matter of restriction. You have to realize that there is no absolute prohibition  
4 whatsoever of protest but there is a restriction on the time and place for it. For example, there is a  
5 substantial interest in protecting citizens from unwelcome noise, there is a substantial interest in  
6 maintaining parks in an attractive and intact condition and the Government has an interest in assuring  
7 the public's safety is in order, promoting the free-flow of traffic down the streets and sidewalks,  
8 protecting property rights, and protecting a women's freedom to seek a pregnancy related service.  
9 So, we have looked into the various interests and we are satisfied that there is a significant  
10 government interest and it is narrowly tailored and it is allowing free speech to be used. In our  
11 opinion, every constitutional right that we have is qualified and if there is a reasonable reason for the  
12 Government to restrain it; for example, we could create alternate forms like "go protest at  
13 Community of Hope" and even though you couldn't protest Downtown, you could go to the  
14 Community of Hope and protest there. That would be reasonable, it doesn't have to be identical or  
15 right next door or anything. For example, in Florida, vendors were not allowed to sell on the beach  
16 so they were moved five blocks away to the interior and the vendors said they had been denied their  
17 Freedom of Speech because they wanted to sell on the beach but the Supreme Court said "no, it is  
18 reasonable". So, we believe that this particular regulation does allow for the practice of Free Speech  
19 within reasonable limits and the Government does have an interest in regulating it's parks.

20

21 Councillor Pedroza said I don't think anyone in the Occupy movement is saying that should they stop  
22 traffic, should they make too much noise, that they can't be corrected. There have been people who  
23 have gone to extremes to express their views, like the people who protest at the funerals of soldiers  
24 to express their view regarding homosexuals and the Court has upheld their Right. I just think that  
25 these couple of items in this policy are almost transparently aimed at the Occupy and because of that  
26 I really think that it would not pass the Constitutional mustard.

27

28 Harry (Pete) Connelly said the Supreme Court of the United States has stated that a ban on camping  
29 is constitutional.

30

31 Robert Garza, City Manger said the question here is do we want camping in City parks? If we do  
32 allow camping in parks then the next question is do we want to limit the time frame?

33

34 Mayor Miyagishima said that is what this is about, it's not about any particular movement.

35

36 Councillor Small said a third thing is the stipulation that camping will only be allowed in  
37 conjunction with special events and will be no more than seven days. That provision is the one that  
38 most concerns me. I would not feel comfortable with moving forward with this today.

39

40 Councillor Sorg said I would propose that we send this back to the Parks and Rec Board for their  
41 reconsideration with Legal's help and to allow public comment.

42

43 Erika Justine Samuel, Member of the Public said I am an Occupier and it is easier to blame the

1 people falling through the cracks rather than to repair the growing cracks and acknowledge that they  
2 are a response to our individual greed. The fact that the Parks and Rec Department is now trying to  
3 change their camping policy is a direct response to Occupy Las Cruces and our occupancy of the  
4 Library's park. Thus, by allowing them to do so, you knowing limit our civil liberties under the  
5 Constitution.

6

7 Jason Burke, Member of the Public said I have received an email from an attorney that states he  
8 would be willing to join any other attorneys and citizens in challenging any claim that there is a  
9 compelling need to change the rules of the game because someone in the City department didn't like  
10 having to monitor the process. I was very impressed with the Occupy Las Cruces group because they  
11 kept their small area neat and they were polite to visitors. As a taxpayer, their use of my park is  
12 lawful and in the future if anyone wants to gather in my park peacefully then that option should be  
13 available to them.

14

15 Michael Miller, Member of the Public said I believe no city is an island and Occupy Las Cruces  
16 assembled peacefully and invited others to speak so we refuse to surrender to the status quo or to any  
17 government. I will ask you to carefully consider the hour we are in and ask yourself "is this the time  
18 to in any way curve or limit people's Right to Assemble and people's Right to Speak"?

19

20 Jeffrey Field, Member of the Public read a statement written in Shakespeare form regarding the First  
21 Amendment.

22

23 Karla Romero, Member of the Public said I am a student at NMSU and I would like to suggest that  
24 before unreasonable limits are placed on the time, manner and place for our First Amendment  
25 practice, that you would make available or set aside a public and reasonable space for unlimited  
26 peaceful display of our First Amendment Right.

27

28 Claudia Piper, Member of the Public said I am retired from NMSU and this seems to be a very  
29 drastic change to Parks and Recreation regulations and it seems to me that it should really go back  
30 to the Parks and Recreation Advisory Board for further review and it should be open for public input.

31

32 Eddie Binns, Member of the Public said if you want something changed then you should go to the  
33 polls and change it. I think you need to take a serious look at the true park issues which is the  
34 funding to accomplish what is needed in the City of Las Cruces to give us the appearance and  
35 utilization of a useful park system.

36

37 Kathy Burke, Member of the Public said the Occupy movement is nationwide and our movement  
38 was the most peaceful movement that I've seen so I don't see what the big deal is with letting them  
39 stay there. You're proposing that it be connected with special events which makes money for the  
40 City so if they had money for the City then they would of been allowed to stay there.

41

42 Dave Dickson, Member of the Public said I support passing this ordinance but I think you should

1 pass a big budget to support it because I plan to be the first one arrested again and again and it is  
2 going to cost the City a lot of money to defend it.

3  
4 Mayor Miyagishima said we might want to consider removing the camping fees section.

5  
6 Councillor Small said that is the section that they are concerned with so I would recommend  
7 removing it entirely to look at it in more depth.

8  
9 Councillor Silva said regarding sponsorship on page 547, are we getting away from sponsorship?

10  
11 Mark Johnston said we will continue to sponsor groups.

12  
13 Councillor Silva said regarding special events on page 557, is Downtown Las Cruces going to be  
14 included in this section?

15  
16 Mark Johnston said yes, that will be a separate document that will become part of this document next  
17 year.

18  
19 Councillor Silva asked is there any way we could address something about the people who show up  
20 at events like our parades, trying to sell things?

21  
22 Mark Johnston said that is a tough issue to address and we are continuing to look into it. One of the  
23 things we run into is that a lot of folks are not insured but we are slowly educating the people in the  
24 business world.

25  
26 Councillor Silva said I am comfortable with what is being presented today and everyone should have  
27 access to our parks. I think this has been clouded with freedom of speech and freedom of liberties  
28 but the true dialog should be about access to our parks by the entire community and the guidelines  
29 we should have to ensure it. I think we do need to tighten up the section regarding camping for seven  
30 days; does it mean you can camp for seven days then leave for one day and then return for another  
31 seven days or seven days within a thirty day period; it needs to be tightened up.

32  
33 -----  
34  
35 Councillor Small Moved to Amend Resolution No. 12-150 to strike the asterisk on page 573 and  
36 completely strike from the resolution camping will only be allowed in conjunction with special  
37 events and limited to no more than seven days and Councillor Sorg Seconded the motion.

38  
39 -----  
40  
41 Councillor Sorg said I just want to mention that I think the Parks and Rec Board should revisit this  
42 issue.

43

1 Councillor Silva said by removing that line everything basically stays the same, like we didn't take  
2 any action at all; correct?

3  
4 Mark Johnston said you will be taking action on the remainder of the policy but the camping  
5 structure will remain the same as it has been in the past.

6  
7 -----  
8

9 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 12-150 to strike the  
10 asterisk on page 573 and completely strike from the resolution camping will only be allowed in  
11 conjunction with special events and limited to no more than seven days and it was Approved. 6-1  
12 Councillor Smith, Councillor Pedroza, Councillor Small, Councillor Sorg, Councillor Thomas and  
13 Mayor Miyagishima voted Aye. Councillor Silva voted Nay.

14  
15 -----  
16  
17 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-150 as Amended  
18 and it was Unanimously Approved. 7-0

DRAFT

19  
20 -----  
21  
22 (9) Resolution No. 12-144: A Resolution Authorizing the City of Las Cruces to Approve the  
23 City's Comprehensive Annual Financial Report for the Year Ending June 30, 2011.

24  
25 Councillor Small Moved to Adopt Resolution No. 12-144 and Councillor Thomas Seconded the  
26 motion.

27  
28 -----  
29  
30 Pat Degman, Comptroller said this resolution is for the approval of the City's Comprehensive  
31 Annual Financial Report for Fiscal Year 2011. The State Auditor requires that at the end of our audit  
32 process that this document be presented at a public meeting to the governing body.

33  
34 Javier Machuca, REDW gave an overhead presentation and said the results of the audit were that  
35 there was a clean opinion on the financial statements, the City was in material compliance with laws  
36 and regulations but there were some audit findings. In the General Fund, revenues exceed  
37 expenditures so you brought in more money than you spent which is good. Some of the findings were  
38 that the construction costs were not adequately tracked or reconciled, timely reconciliations of utility  
39 accounts receivable were not performed, actual expenditures exceeded budget expenditures in six  
40 funds and there were also issues with your information technology. The findings for the Public  
41 Housing Authority were issues with rental contracts and W-9s, reasonable rent determination and  
42 payroll allocations but these issues have been resolved. We also did a test on your STOP program  
43 and found no material noncompliance with requirements, four out of sixty citations sampled were

1 pasted thirty-five days due and had no \$25 late fee assessed and six out of sixty citations sampled  
2 were paid after the thirty-five days of date of issuance however the amount paid did not include the  
3 \$25 late fee.

4

5

6

7 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-144 and it was  
8 Approved. 6-0 Councillor Thomas was Absent.

9

10

11

12 Councillor Smith Moved for a five minute recess and Councillor Small Seconded the motion.

13

14

15

16 Mayor Miyagishima said all those in favor signify by stating "Aye". Council stated "Aye".

17

18

19

20 The meeting recessed at approximately 4:05 p.m. and reconvened at approximately 4:14 p.m.

21

22

23

24 (10) Resolution No. 12-145: A Resolution Authorizing and Approving Submission of a  
25 Completed Application for Financial Assistance and Series 2003 Bond Refunding Project  
26 Approval to the New Mexico Finance Authority (NMFA).

27

28 Councillor Silva Moved to Adopt Resolution No. 12-145 and Councillor Thomas Seconded the  
29 motion.

30

31

32

33 Robert Scaling, Treasurer said based on the current low interest rate, we are here today to ask for  
34 your approval to submit an application to refund the remaining balance which is about \$2.2 million.

35

36 Kevin Powers, RBC Capital Market gave an overhead presentation and said these bonds were issued  
37 in a fixed rate form and the amount is callable on June 1, 2012 which is the amount of \$2.2 million.  
38 The average rate on the outstanding debt is about 4.05% and the rate for these funds is less than half  
39 of that percentage rate and with the market today you can save about \$120,000 at the present value  
40 basis. We would be back before you on March 5<sup>th</sup> for the first reading of the bond ordinance and then  
41 the New Mexico Finance Authority Board will meet on March 22<sup>nd</sup> to approve the loan application.

1 We would then be back before you during the first meeting of April for the approval of the final  
2 ordinance.

3  
4 Councillor Silva said we are going to be saving about \$117,000 on this transaction so what are we  
5 going to do with that money?

6  
7 Robert Scaling said that \$120,000 will be over a period of six years so it's only about \$20,000 in  
8 savings per year and those funds will go back into the fund that is charged with serving the debt.

9  
10 -----  
11  
12 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-145 and it was  
13 Unanimously Approved. 7-0

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15 -----  
16  
17 (11) Resolution No. 12-146: A Resolution in Support of the Downtown Las Cruces Partnership's  
18 (DLCP) FY 2012 Application for Grant Assistance from the New Mexico Mainstreet  
19 (NMMS) Program in an Amount up to \$200,000.00 with an Estimated Match up to  
20 \$20,000.00, \$10,000.00 In-Kind and \$10,000.00 Cash from the New Entity Formed by DLCP  
21 and the Doña Ana Arts Council, for Renovations and Assessments of the Camuñez Building  
22 and for the City of Las Cruces to Act as the Fiscal Agent If Awarded Funds.

23  
24 Councillor Small Moved to Adopt Resolution No. 12-146 and Councillor Sorg Seconded the motion.

25  
26 -----  
27  
28 David Dollahon, Chief Planning Administrator gave an overhead presentation and said this is for a  
29 grant application for the New Mexico Mainstreet Program and only local Main Street organizations  
30 are able to be the lead applicant. The local governing body must be willing to serve as the fiscal  
31 agent should the funds be awarded. There is a 10% match which half is required to be a cash match.  
32 The project will focus on the Camunez Building which is located at 201 North Main and there are  
33 four phases to this project but this application would be applied to phase one of the project.

34  
35 Councillor Smith said I would love to see this move forward and I think the Camunez Building has  
36 every opportunity to become a very important and vital part of the Downtown revitalization.

37  
38 Councillor Small said I strongly support this but I'd like to know if this is a piece of the operating  
39 agreement between Downtown Las Cruces Partnership and the Dona Ana Arts Council?

40  
41 David Dollahon said their operation agreement is a key component to the long-term implementation  
42 of this project.

1  
2 Councillor Silva asked what is the status of the agreement?

3  
4 Carrie Latoure, Downtown Las Cruces Partnership Executive Director said Main Street New Mexico  
5 is working on completing the feasibility study and we are all in agreement on what needs to be in the  
6 building and the economic development that needs to happen from the building.

7  
8 Councillor Silva said the Hispano Chamber has expressed an interest in our old City Hall but I think  
9 it is too much building for them so maybe you should consider working with them because there is  
10 plenty of space there for both of you. Where is the \$10,000 cash for the match going to come from?

11  
12 Carrie Latoure said the individual organizations would have to raise \$5,000 each.

13  
14 Councillor Smith said I hope the historic features of the building will remain.

15  
16 David Dollahon said there is only going to be interior demolition.

DRAFT

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19  
20 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-146 and it was  
21 Unanimously Approved. 7-0

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25 (12) Resolution No. 12-147: A Resolution to Adopt the One Valley, One Vision 2040 Regional  
26 Plan.

27  
28 Councillor Thomas Moved to Adopt Resolution No. 12-147 and Councillor Sorg Seconded the  
29 motion.

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31 -----

32  
33 Paul Michaud, Senior Planner gave an overhead presentation and said there have been a total of 119  
34 public meetings to date and we also had mail and phone surveys to focus on the stakeholder groups.  
35 In September 2011, Council and the County Commission directed staff to hold two additional public  
36 meetings and to meet with the Advisory Committee to review the proposed changes in the matrix.  
37 We did hold a public meeting on October 13<sup>th</sup> and we only had one person show up for that meeting  
38 and on October 25<sup>th</sup> we held a meeting in Vado and there were thirty people in attendance. On  
39 October 27<sup>th</sup> we met with the Advisory Committee and that meeting resulted in a few edits and  
40 additions like defining green infrastructure and low impact development and recommending elected  
41 officials evaluate the task force after a three year waiting period.

42

1 Councillor Sorg said I like this plan and I would like to see it adopted but I think there should be a  
2 document added concerning the Butterfield Trail.

3

4 Councillor Thomas said I like this new draft but there are some grammatical errors so should I just  
5 send you the corrections?

6

7 Paul Michaud said yes.

8

9 Councillor Thomas said there are many other groups that have worked on this and I hope that as we  
10 go forward that they are included in the listings. There is a strong emphasis on Agriculture which  
11 doesn't really produce a lot of jobs but I was disappointed that there wasn't any mention of solar for  
12 this area.

13

14 Councillor Silva said we are at the point where we need to just pass this so we can move forward but  
15 I do have difficulty with waiting three years before we review this again.

16

17 Councillor Pedroza said I think it is vitally important that other types of jobs be found because many  
18 of the jobs we've had in the past will no longer be available.

19

20

21

22 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-147 and it was  
23 Unanimously Approved. 7-0

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26

27 (13) Resolution No. 12-148: A Resolution Authorizing the Application for 2012/2013 Municipal  
28 Arterial Program Funding With the New Mexico Department of Transportation for the  
29 \_\_\_\_\_ Project.

30

31 Councillor Small Moved to Adopt Resolution No. 12-148 and Councillor Sorg Seconded the motion.

32

33

34

35 Louis Grijalva, Project Development Administrator gave an overhead presentation and said NMDOT  
36 solicits applications for projects for the MAP program on an annual basis and on average they give  
37 out about \$500,000 with a required 25% match. The types of programs that qualify are ones that  
38 would benefit the State or municipal road systems and the project that is selected must be under  
39 contract to construct by June 20, 2013. We have identified three potential projects which are the  
40 Amador Avenue Resurfacing Project, the Triviz Drive Rehabilitation Project and the Campo Street  
41 Rehabilitation Project.

42

1 Robert Garza, City Manager said all of these projects are needed which means we will likely do  
2 something for all these roadways in the next two to three years so the question is which one of these  
3 projects would we like to get help on from the Highway Department?  
4

5 Mayor Miyagishima said I just want to point out that it is very difficult for people in wheelchairs to  
6 go through Campo so I think that project would be a good one to do.  
7

8 Councillor Small said all of these projects need to be done but I think the Amador Project meets the  
9 criteria and it would be a good project to do with this funding.  
10

11 Councillor Thomas said Amador is a more expensive project so do we have a chance of getting  
12 funding for a project that big?  
13

14 Louis Grijalva said yes.  
15

16 Councillor Thomas said I agree with Councillor Small and we should go after the project that would  
17 cost more so we could get help with that funding.  
18

19 Councillor Silva said this would be a continuation for the Amador Project; correct?  
20

21 Louis Grijalva said that is correct.  
22

23 Councillor Silva said there aren't any ADA requirements for the Amador Project; correct?  
24

25 Louis Grijalva said that is correct because there will be another project that will include the ADA.  
26

27 Councillor Silva asked what fund is the match going to come from?  
28

29 Robert Garza said the matching funds for this grant would be coming out of the quarter cent GRT  
30 for street maintenance fund.  
31

32 Councillor Sorg said last year Elks Drive was on this list but it isn't included this year; why?  
33

34 Louis Grijalva said I think it wasn't included this year because we are thinking that Zia Shadows is  
35 going to be developed and they may be contributing some portion of it.  
36

37

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38

39 Councillor Small Moved to Amend Resolution No. 12-148 to insert attachment "A" for Amador  
40 Avenue Resurfacing from 17<sup>th</sup> Street to Motel Boulevard, Option 1 and Councillor Sorg Seconded  
41 the motion.  
42

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2

3 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 12-148 to insert  
4 attachment "A" for Amador Avenue Resurfacing from 17<sup>th</sup> Street to Motel Boulevard, Option 1 and  
5 it was Unanimously Approved. 7-0

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8

9 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-148 as Amended  
10 and it was Unanimously Approved. 7-0

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13

14 (14) Resolution No. 12-149: A Resolution Authorizing the Application for 2012/2013 Co-Op  
15 Funding with the New Mexico Department of Transportation for the  
16 Project.

17

18 Councillor Silva Moved to Adopt Resolution No. 12-149 and Councillor Thomas Seconded the  
19 motion.

20

21 -----

22

23 Louis Grijalva, Project Development Administrator gave an overhead presentation and said this is  
24 similar to the previous item. NMDOT solicits applications for projects for the local government road  
25 fund and they generally give a maximum of \$55,000 with a 75/25 split. The selected project must  
26 be designed and constructed by December 31, 2013. The three potential projects identified are the  
27 Solano Drive ADA Sidewalk Improvements Project, the Telshor Boulevard ADA Sidewalk  
28 Improvements and the El Paseo Road Median Improvements Project.

29

30 Councillor Silva said I would select option two which is the Telshor Project mainly due to the public  
31 need of ADA access in this area.

32

33 Councillor Thomas asked are we almost done with the Solano Project?

34

35 Louis Grijalva said we probably have one more phase of that project.

36

37 Councillor Thomas said my mother lived at Good Sams and it was very difficult to push her in her  
38 wheelchair along Telshor so I know how badly these improvements are needed for that area;  
39 therefore, I would vote for the Telshor Project.

40

41 Councillor Sorg asked will we be doing all three projects anyway?

42

1 Robert Garza, City Manager said all these projects are likely to happen but it probably won't be in  
2 the next two or three years because of our budget.

3  
4 Councillor Sorg said I really don't have a preference because these are all great projects.

5  
6 Councillor Small said I would support the Telshor Project.

7  
8 Councillor Pedroza said these are all necessary projects but I would support the Telshor Project.

9  
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11  
12 Councillor Smith Moved to Amend Resolution No. 12-149 to insert the Telshor Project and  
13 Councillor Silva Seconded the motion.

14  
15 -----  
16  
17 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 12-149 to insert the  
18 Telshor Project and it was Unanimously Approved. 7-0

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21  
22 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-149 as Amended  
23 and it was Unanimously Approved. 7-0

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26  
27 (16) Council Bill No. 12-024; Ordinance No. 2646: An Ordinance Approving a Zone Change  
28 From C-3C (Commercial High Intensity-Conditional) to C-3C (Commercial High Intensity-  
29 Conditional) on 6.04 ± Acres of Land Located on the South Side of Stern Drive, 0.35 ± Miles  
30 East of Its Intersection With Avenida De Mesilla; Parcel ID# 02-30595. Submitted by Ted  
31 G. Scanlon on Behalf of Hacienda RV, LLC, Property Owner (Z2842).

32  
33 Councillor Small Moved to Adopt Council Bill No. 12-024; Ordinance No. 2646 and Councillor  
34 Sorg Seconded the motion.

35  
36 -----

37  
38 Robert Kyle, Building and Development Services Administrator said this is for a zone change from  
39 C-3C to C-3C with the removal of some existing conditions on the property. It is currently  
40 associated with an existing RV park and conditions on the property essentially limits the uses to an  
41 RV park.

42

1 Ted Scanlon, Applicant Representative gave an overhead presentation and said the original zoning  
 2 was under the 1981 Code then when the new Zoning Code came into affect in 2001 it needed to be  
 3 converted to be in compliance with the new code so it was given the C-3 zoning with a lot of  
 4 conditions on it. The subdivision neighbors filed a lawsuit against the limited liability company to  
 5 try to block the development of the RV park. That lawsuit resulted in a settlement agreement which  
 6 included a number of conditions on the development of the property so when the special use permit  
 7 was put in place all the same conditions were placed on the permit at that time. We also carried all  
 8 those conditions through the conversion to the 2001 Code. One of those conditions was that the  
 9 original site plan be followed in phase two which would require us to build an RV park but we don't  
 10 need an RV park. Basically, the whole reason for being here is to get that condition removed so that  
 11 the property can be developed as something other than an RV park. We have proposed to develop  
 12 it as a USDA Field Office and we would set aside part of it for indoor RV storage. We went to the  
 13 Planning and Zoning Commission and they approved the case with some additional conditions The  
 14 proposed zoning would remove three conditions which are that no structures exceeds 60-feet in  
 15 height, emergency exists shall require the approval of the Fire Department and the site plan as  
 16 approved shall be followed. The Planning and Zoning also recommended three new conditions which  
 17 are the remaining unimproved section of Stern Drive shall be built out to match the existing  
 18 conditions of the improved section of Stern Drive whenever any development proposing access to  
 19 Stern Drive is proposed, a flea market shall not be permitted on the subject property and the  
 20 permitted uses for the subject property shall be limited to those found in attachment 3 of the packet.  
 21 The primary access shall be from Stern Drive which is a minor arterial roadway as classified by the  
 22 MPO.

23

24 Councillor Small said in reading the notes it is clear that there were some concerns expressed by  
 25 some of the neighbors and it is also clear that those concerns were addressed in the current  
 26 conditions. Therefore, I think that merits the approval of this and I commend P & Z for addressing  
 27 those issues.

28

29 Councillor Thomas said the buffer will be provided; correct?

30

31 Ted Scanlon said yes.

32

33

34

35 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 12-024; Ordinance  
 36 No. 2646 and it was Approved. 6-0 Councillor Sorg was Absent.

37

38

39

40 (17) Council Bill No. 12-026; Ordinance No. 2648: An Ordinance Approving a Zone Change  
 41 From RE (Single-Family Residential Estate) to R-1AC (Single-Family Medium Density-

1 Conditional) for a 0.3933 ± Acre Parcel Located at 3615 Spitz Street Submitted by Kenneth  
2 Ronald Sowell, Property Owner (Z2848).

3

4 Councillor Small Moved to Adopt Council Bill No. 12-026; Ordinance No. 2648 and Councillor  
5 Pedroza Seconded the motion.

6

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9

10 Katherine Harrison-Rogers, Senior Planner gave an overhead presentation and said the purpose of  
11 this request is to bring the undersized, nonconforming parcel into compliance. The Planning and  
12 Zoning recommended a conditional approval which would not allow multi-family development in  
13 the existing or proposed zoning designation.

14

15 Veronica Sowell, Applicant said my husband bought this property over twenty-five years ago and  
16 when it was bought it was already subdivided so it was two lots. In 1987 the City annexed us into  
17 the City and at that time they zoned both properties as residential estates even though the one lot did  
18 not meet those qualifications. About five or six years ago our street was paved and they installed stub  
19 outs on that lot so it now has gas and water stub outs and is ready to be developed. As the lot  
20 currently sits it is useless because I can't build on it or even put a garage structure on it because it  
21 is against the Code. I am here to ask you to re-zone it and I don't think the new zoning is out of  
22 scope because all my neighbors have that type of zoning.

23

24 Councillor Silva said you are just looking to put some kind of a "mother-in-law" type home on that  
25 property; correct?

26

27 Veronica Sowell said yes or we may have to sell the property to help pay for my daughter's college  
28 tuition.

29

30

31

32 Mayor Pro-tem Thomas called for the roll on the Motion to Adopt Council Bill No. 12-026;  
33 Ordinance No. 2648 and it was Approved. 4-0 Councillor Smith, Councillor Sorg and Mayor  
34 Miyagishima were Absent.

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### 38 **VIII. BOARD APPOINTMENTS**

39

40 None given.

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

(18) Council Bill No. 12-028; Ordinance No. 2650: An Ordinance to Repeal Section III Subsection 3 of Ordinance 2447 in Order to Correct a Condition to Accurately Reflect the Motion Made by Council During a Las Cruces City Council Meeting Held on April 28, 2008, Affecting Parcel 32 of the High Range PUD.

Mayor Miyagishima and Council agreed to bring this item forward.

(19) Council Bill No. 12-029; Ordinance No. 2651: An Ordinance Approving Multiple Zone Changes for 120.535 ± Acres of Land Located Within the Rancho Del Rey Master Planned Area; Generally East of Roadrunner Parkway, North and South of Settlers Pass; Parcel ID# 02-38952. Submitted by Underwood Engineering on Behalf of Eddie Binns, Property Owner (Z2814).

Mayor Miyagishima and Council agreed to bring this item forward.

DRAFT

**X. GENERAL DISCUSSION**

1. Mayor

Mayor Miyagishima said I just want to remind everyone that I will be having my District meetings in March and I will be trying to schedule Districts 5 and 6 at the Dona Ana Branch Community College, Districts 1 and 4 at City Hall and Districts 3 and 2 at University Hills.

2. City Council

Councillor Thomas said we did have the Neighborhood Summit on February 11<sup>th</sup> and there were about seventy to seventy-five people there. We handed out a questionnaire and people stated that they liked the session, they thought Codes did a great job and everyone stated that they would like to have another session. The biggest complaint was that people didn't like having three breakouts.

The South Central Council of Governments met last week and they are working on their economic development plan so I am asking Mr. Garza and staff to work with them. They are working on getting e-books and I would like for us to look into doing that as well. There is also an e-service that helps track grants and I'd like us to look into that as well.

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Councillor Small said there has recently been some graffiti on the Downtown Mall area that is facing Water Street and I would like to know what the procedure is for graffiti on panels like that?

Chief Williams, LCPD said typically, we contact Codes and they bring out the Keep Las Cruces Beautiful crew to try to get it cleaned up.

-----

Councillor Pedroza said I just want to thank NMSU for the series of lectures regarding immigration.

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Councillor Silva said this Sunday at Nopalitos Gallery they are having an extension of their platica series and there will be some immigration discussions included in it.

DRAFT

Regarding some of the items that were on today's agenda, I feel the Disadvantaged Business Program needs to evolve into some kind of project or program because right now it is just some type of a liaison person and I think we are just doing it because we are mandated to do it instead of us truly wanting to help small business. There were two traffic items which were Items 13 and 14 and it seems there should have been a paragraph in there that states we are also addressing DBP practices or something. Regarding the parks issue, I agree with us just leaving it open and we should try to find a solution of some sort and I would hope that we could move on that rather quickly.

Last week we spoke with the Farmers Market and I think it was rather obvious that there still needs to be more dialog between the vendors and the City regarding whether they should become more self supporting or continue to work with the City.

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3. City Manager

Robert Garza, City Manager said there was a traffic accident in District 2 that took out the traffic signal at University Avenue and South Main Street. It is going to take at least a week to repair the base and pour the concrete.

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Meeting Adjourned at 6:30 p.m.