



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

Regular Meeting

May 26, 2009

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 Dolores C. Archuleta, District 3
- 18 Councillor Nathan Small, District 4
- 19 Councillor Gil Jones, District 5 (arrived at 1:10 p.m.)
- 20 Councillor Sharon Thomas, District 6

- Terrence Moore, City Manager
- Fermin Rubio, City Attorney
- Esther Martinez, 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 Presentation of Certificates of Appreciation/Proclamations.

30 Mayor Miyagishima and Bob Hearn presented the Pet of the Week.

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.*

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

41 Mayor Miyagishima said regarding one of the zone changes, I have used Dave Church who is an
42 engineer for one of my projects.

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3 **III. PUBLIC PARTICIPATION**

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5 None given.

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

12

13 Mayor Miyagishima said Items 2 and 3 need to be removed from the Consent Agenda for discussion.

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17 Councillor Connor Moved to approve the Agenda as Amended and Councillor Archuleta Seconded
18 the motion.

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

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27 **V. CITY COUNCIL MINUTES**

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29 *(1) Regular Meeting of April 27, 2009

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

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35 *(4) Council Bill 09-060; Ordinance No. 2523: An Ordinance Approving a Zone Change
36 From C-2 (Commercial Medium Intensity) to C-3C (Commercial High Intensity-
37 Conditional) for 2.41 +/- Acres Located South of Bataan Memorial East and West of
38 South Jornada Road. The Zone Change Request Will Bring the Property Into
39 Compliance With the 2001 Zoning Change, as Amended. The Subject Property
40 Currently Exceeds the Maximum Size for Properties Within the C-2 (Commercial
41 Medium Intensity) Zoning District. Submitted by Scanlon White, Inc for PQ HWY
42 70, LLC (Z2783).

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* (5) Council Bill No. 09-061; Ordinance No. 2524: An Ordinance Approving a Zone Change From A-2 (Rural Agriculture District 1981 Zoning Code) to EE (Single-Family Equestrian Estate & Agriculture) for 4.77 +/- Acres Located at 1690 Tucson Avenue. The Zone Change Will Bring the Property Into Compliance With the 2001 Zoning Code, as Amended. Submitted by Ruth Gandara & Vicki Lucero for Linda Garza, Property Owner (Z2784).

VII. RESOLUTIONS AND/OR ORDINANCES FOR DISCUSSION

* (2) Resolution No. 07-08-319B: A Resolution Approving the Award of a Contract to Delta Airport Consultants, Inc., of Little Rock, Arkansas in the Amount of \$1,146,784.00 to Perform Bidding and Construction Phase Services for the Runway 12-30 Rehabilitation Project at the Las Cruces International Airport.

Councillor Archuleta Moved to Adopt Resolution No. 07-08-319B and Councillor Small Seconded the motion.

Ken Moody, Delta Airport Consultants gave a presentation and said this is for the rehabilitation of Runway 12-30 which is your primary runway. The pavement is cracked and it is in poor condition. We are going to be taking up the existing asphalt and reconstructing it to meet the FAA standards. We are going to bid out both the concrete and asphalt work for this project and we anticipate construction to begin in early July of this year.

Councillor Silva said it was stated that if the funding isn't available then you are going to go for AIP grant funding; is that correct?

Ken Moody said that is correct. The FAA has programmed this to be funded, you are receiving a grant from the Stimulus Plan but there is a potential that if we don't get good bids then we may need additional money to put in with that funding.

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 07-08-319B and it was Unanimously APPROVED. 7-0

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1 *(3) Council Bill No. 09-056; Ordinance No. 2519: An Ordinance to Amend Sections 37-
2 141, 37-142, and 38-48 of the Las Cruces Municipal Code, Pertaining to Infill
3 Development, to Allow Underutilized Parcels Within the Designated Infill Area to
4 Use the Infill Development Process, and Clarifying the Purpose and Approval
5 Procedure. Submitted by the City of Las Cruces (ZCA-09-02/SA-09-02).
6

7 Councillor Archuleta Moved to Adopt Council Bill No. 09-056; Ordinance No. 2519 and Councillor
8 Connor Seconded the motion.

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12 Vincent Banegas, Planning and MPO Administrator gave a presentation and said these amendments
13 will ultimately impact the subdivision and zoning codes. This clarifies some of the provisions that
14 we have in place in our subdivision and zoning codes and gives us a little more flexibility.

15

16 Mayor Miyagishima said I am going to recuse myself from this item because I have some land that
17 could be affected by this ordinance.

18

19 Vincent Banegas continued his presentation.

20

21 Councillor Silva said ten years ago it was stated that there needed to be an inventory done of all the
22 buildings and now, you feel that is impossible to do, correct?

23

24 Vincent Banegas said we did take an inventory of vacant lands but didn't consider the un-utilized
25 properties so we decided to handle them on a case by case basis.

26

27 Councillor Thomas said I am happy to hear that you will be considering affordable housing options.

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31 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 09-056; Ordinance
32 No. 2519 and it was APPROVED. 6-0 Mayor Miyagishima was Absent.

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36 (6) Resolution No. 09-281: A Resolution Authorizing the New Mexico State University
37 Office of Special Events to Continue with the Permitting Process which Final
38 Approval Would Allow for the Sale and Consumption of Alcoholic Beverages within
39 a Restricted and Secured Area at the Thunder on the Rio Grande Air Show to be Held
40 at Las Cruces International Airport on May 30 and 31, 2009.

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42 Councillor Connor Moved to Adopt Resolution No. 09-281 and Councillor Jones Seconded the
43 motion.

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4 Scott Breckner, NMSU Director of Special Events said we are basically asking permission to have
5 a beer garden area for this event.

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7 Councillor Jones said I just want to congratulate you on this event and this air show will be great for
8 Las Cruces.

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12 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 09-281 and it was
13 Unanimously APPROVED. 7-0

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17 (7) Council Bill No. 09-057; Ordinance No. 2520: An Ordinance Approving a Zone
18 Change From R-2 (Multi-Dwelling Low Density) and R-4 (Multi-Dwelling High
19 Density & Limited Retail and Office) to C-2 (Commercial Medium Intensity) for
20 Five (5) Distinct Lots Having a Combined Area of 0.7641 +/- Acres Located at 1501
21 N. Solano Drive. Submitted by Southwest Engineering, Inc for Resources for
22 Children and Youth, Inc (Z2760).

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24 Councillor Connor Moved to Adopt Council Bill No. 09-057; Ordinance No. 2520 and Councillor
25 Archuleta Seconded the motion.

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29 Gary Hembree, Senior Planner gave a presentation and said this property is located at the corner of
30 Solano and Juniper and there is double frontage on this property.

31

32 Mayor Miyagishima said this was the former Rivers Academy and they want to use it for the same
33 type of usage as they had in the past, correct?

34

35 Gary Hembree said that is correct.

36

37 Paul Pompeo, Southwest Engineering gave a presentation and said there are other C-2 zoned
38 properties in this area so this request isn't out of character for the area.

39

40 Mayor Miyagishima asked has there been any opposition from the residents next to this property?

41

42 Paul Pompeo said no.

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1 Mayor Miyagishima said I think it would be better if we knew what this property was going to be
2 used for; why change the zoning if it fits for the current use?

3

4 Paul Pompeo said this would give them flexibility with their wide variety of uses.

5

6 Councillor Connor asked with what we just passed regarding the infill amendments, what effect
7 would that have on this property?

8

9 Vincent Banegas said if this property came forward and was currently un-utilized, then we could
10 entertain a use change for this property.

11

12 Councillor Connor asked if we didn't approve the zone change for the back parcel, would they be
13 able to have administrative offices or rehabilitation classes there?

14

15 Vincent Banegas said no.

16

17 Councillor Thomas said I don't see why we would need to rezone the whole thing when the
18 properties aren't joined yet.

19

20 Vincent Banegas said there are some utility issues so the use of it as a corridor won't change; it
21 would simply be converted from real property to an easement. There wouldn't be setback issues and
22 we could utilize more of the property.

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26 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 09-057; Ordinance
27 No. 2520 and it was Unanimously APPROVED. 7-0

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31 (8) Council Bill No. 09-058; Ordinance No. 2521: An Ordinance Approving a Zone
32 Change From R-3 (Multi-Dwelling Medium Density) and C-1 (Commercial Low
33 Intensity) to C-3C (Commercial High Intensity-Conditional) for Three (3) Distinct
34 Properties Having a Combined Area of 10.45 +/- Acres Located East of El Paseo
35 Road and West of Espina Street. The Zone Change Will Facilitate the Construction
36 of a Shopping Center Having a Combined Gross Floor Area of 93,700 +/- Square
37 Feet. Submitted by David B. Church, P.E., For Orlando and Joseph Cervantes,
38 Property Owners (Z2778).

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40 Councillor Connor Moved to Adopt Council Bill No. 09-058; Ordinance No. 2521 and Councillor
41 Jones Seconded the motion.

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2 Gary Hembree, Senior Planner gave a presentation and said the Planning and Zoning Commission
3 did recommend approval of this zone change.

4

5 Orlando Cervantes, Applicant gave a presentation and said there are many apartments in this area
6 but there isn't a lot of commercial property. We feel that the best use of this land would be for
7 commercial use.

8

9 Councillor Connor said a couple of questions that were asked of me from a few of the residents in
10 that area is where would the rain water be moved to once that property is developed and how will
11 you solve the drainage issues?

12

13 Orlando Cervantes said we entered into an agreement with the City a few years ago to allow a
14 waterline easement to be put through this property which saved the City a lot of money. Gomez Park
15 is the designated ponding area for this area.

16

17 Councillor Connor asked what kind of buffer will you put in place between your property and the
18 Heritage Farm Neighborhood? They want to expand that neighborhood and they want to make sure
19 that you aren't going to use their area as an entrance.

20

21 Orlando Cervantes said right now, there is an alley between us and the development we put on this
22 property will have rock walls and landscaping.

23

24 Councillor Thomas asked will there be pedestrian access from the park to the shopping area?

25

26 Orlando Cervantes said there will be some crosswalks.

27

28 Jose Contreras, Member of the Public said I have a residence within this area and this project is
29 going to bring a lot of traffic to this area.

30

31 Jesus Corral, Member of the Public said I own property in this area and I don't feel the entrance or
32 exit areas are going to be big enough for emergency vehicles.

33

34 Adolf Zubia, Fire Chief said there are two access points and we have no safety concerns for this area.

35

36 Mayor Miyagishima asked Dave, can you address the drainage issue for this area?

37

38 Dave Church, Engineer said there is already a resolution that designates Gomez Park for the ponding
39 area of this property. Right now, we have a conceptual plan that we are going over with the City and
40 the City will have the final approval for this plan.

41

42 Jose Contreras said usually, there aren't commercial properties mixed in with residential properties.

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1 Mayor Miyagishima said El Paseo is mostly a commercial area.

2

3 Laura Corral, Member of the Public said there are residential properties in this area; it's not all just
4 commercial property. There will be a lot of traffic going through this area and you need to consider
5 the residents in this area. Also, I don't understand why you would use a park as a ponding area.

6

7 Mayor Miyagishima said this isn't for the final approval of the project; it is just for the zone change
8 of this property.

9

10 Jose Contreras said I recommend that Council not take action on this item today.

11

12 Councillor Jones said the property is currently zoned C-1 and the property owner could still use this
13 property for the current allowed uses.

14

15 Councillor Connor said I would like to ask Mr. Cervantes if he would eliminate firework sales from
16 the allowed uses for this property.

17

18 Orlando Cervantes said we would agree to eliminate firework sales from the uses.

19

20 I want to mention that we did make attempts to speak with the residents in this area regarding this
21 project.

22

23 Councillor Connor said I did attend a meeting at Heritage Farms where a presentation was given
24 regarding this project.

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28 Councillor Connor Moved to Amend Council Bill No. 09-058; Ordinance No. 2521 to remove
29 firework sales from the allowed uses and Councillor Archuleta Seconded the motion.

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33 Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 09-058; Ordinance
34 No. 2521 and it was Unanimously APPROVED. 7-0

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38 Mayor Miyagishima asked did the City send out proper notifications to the residents regarding this
39 item?

40

41 David Weir, Community Development Director said yes.

42

43 Councillor Archuleta asked Mrs. Corral, since you live in California, do you rent out your property?

1 Laura Corral said yes, we rent it out at this time. Can we change our zoning from residential to
2 commercial as well?

3

4 Mayor Miyagishima said we can't speak directly at that issue but right now, you have the best of
5 both worlds, commercial and residential.

6

7 Laura Corral said I wasn't allowed to add an additional driveway to my property because of the
8 traffic issues.

9

10 Mayor Miyagishima said you probably need to have the approval of Wells Fargo for that issue.

11

12 Councillor Thomas said the City has applied to the Environmental Protection Agency for a workshop
13 and technical advice for people who own property along El Paseo and the rest of the community.

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17 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 09-058; Ordinance
18 No. 2521 as Amended and it was Unanimously APPROVED. 7-0

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22 (9) Council Bill No. 09-059; Ordinance No. 2522: An Ordinance Approving a Zone
23 Change From R-1A (Single-Family Medium Density) to O-2C (Office Professional-
24 Limited Retail Service-Conditional) for 1.3 +/- Acres Located at 1435 South Pecos
25 Street. The Subject Property Contains a 10,800 Square Foot Religious Institution
26 That Will be Converted Into Professional Offices. Submitted by Fernando Cadena
27 for First Evangelical Free Church (Z2782).

28

29 Councillor Archuleta Moved to Adopt Council Bill No. 09-059; Ordinance No. 2522 and Councillor
30 Connor Seconded the motion.

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34 Councillor Jones said I want to mention that this property is listed with my employer; however, I
35 have no financial interest regarding this property.

36

37 Gary Hembree, Senior Planner gave a presentation and said currently, there is a religious institution
38 on this property which is a non-conforming land use. The Planning and Zoning Commission
39 recommended approval for this with the following conditions: that with the conversion to
40 professional offices that there would be immediate parking and landscaping improvements to the
41 site, compliance with all outdoor lighting requirements and these improvements would be required
42 even if the renovations are less than \$2,500.

43

1 Fernando Cadena, Applicant said the reason we want to change the zoning is because this was
2 originally built in an area that wasn't zoned and for some mysterious reason, around 1956 it became
3 residential but the church had already been built. We are planning to sell this property and we feel
4 this area would greatly benefit from office spaces as a land use for this property.

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8 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 09-059; Ordinance
9 No. 2522 and it was Unanimously APPROVED. 7-0

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13 **VIII. BOARD APPOINTMENTS**

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15 None given.

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

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21 None given.

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25 **X. STATUS/UPDATES ON CURRENT PROJECT LIST**

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27 1. **Strategic Plan** - (Currently collecting information and obtaining feedback from
28 executive leadership, elected officials, and citizens.)

29 2. **Sustainability Officer** - (Recruitment is in process and applications are being
30 received. Posting scheduled to close on 04/27/09.)

31 3. **Las Cruces Center** - (Status report provided monthly on second, Regular City
32 Council Meeting)

33 4. **Downtown** - (A public meeting was held on Thursday, May 7, 2009. Design of
34 the project construction plans is moving forward. Efforts are being made to
35 incorporate public comments received at the meeting.)

36 5. **Impact Fees** - (Project is ongoing – next scheduled work session with City
37 Council is May 6th at 1:00 p.m. in the City Council Chambers.)

38 6. **Aquatics Center** - (Status report provided monthly on first, Regular City Council
39 Meeting)

40 7. **Vision 2040** - (The consultants are finishing the drafts of the Vision 2040
41 Regional Plan and Dona Ana County Comprehensive Plan. The draft of the Las
42 Cruces Comprehensive Plan is under review by city staff. After staff review and
43 revisions, the draft plans will be presented for public review.)

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3 **XI. GENERAL DISCUSSION**

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5 1. Mayor

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7 Mayor Miyagishima passed out a letter and sample resolution and said I was asked by a resident
8 if the City would support this resolution, please read it and let me know what you think about it.

9

10 I have a copy of a speeding ticket from a resident and it has a statement on it that states, "A
11 second or subsequent stop violation within two years from the date of this stop fine will lead to
12 increased fines, including loss of subject vehicle." In my opinion, the purpose of these red light
13 cameras is to make our streets safer and not to take away someone's vehicle. Next month, I want
14 to propose to Council that we remove that portion of the statement from these notifications.

15

16

17 2. City Council

18

19 Councillor Archuleta said I was asked why the flags were at half staff and I found out that it is
20 because the Governor ordered them at half staff to honor the original navajo code talker John
21 Brown Jr. whose services are being held today.

22

23 Councillor Thomas said I want to thank Mike Johnson for the fact that the Sonoma Ranch
24 Boulevard project is almost completed.

25

26 There is a District 6 meeting tomorrow night at the Good Samaritan Village in the auditorium.

27

28 I want to thank everyone who attended the dust meetings last week.

29

30 It is my understanding that not all of the stimulus funds will be spent because some projects
31 won't qualify so some of that money will be going back to the federal government and we will
32 have the opportunity to apply for these funds again.

33

34 I think we need to pay attention to the Governor's Efficiency for Investments Policy.

35

36 Councillor Jones said there is an open house meeting tomorrow night that was organized by
37 Representatives Cote, Steinborn and Senator Fishman and it begins at 6:00 p.m. at Onate High
38 School.

39

40 There is a meeting here at 6:30 that is hosted by the Public Works Department to discuss Del Rey
41 and the widening to the Sand Hills Arroyo.

42

43 Councillor Small said I want to thank Mike Johnson and Mark Johnston for their work on

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1 controlling the mosquito population.
2
3 Councillor Connor said I believe that everyone who has asked to be appointed to a Municipal
4 League Policy or Resolution Committee has been appointed to one.
5
6 Councillor Silva said regarding Mr. Moore's Information Letter concerning the El Paso Electric
7 meetings, I was concerned with the transparency of these meetings. We were informed that we
8 were going to have one on one private meetings with El Paso Electric.
9
10 Terrence Moore, City Manager said those meetings have nothing to do with the Franchise
11 Agreement negotiations; they simply asked to speak with all of you one on one regarding updates
12 on the Public Regulation Commission.
13
14 I went to Washington last week and they mentioned that we need to get our funding application
15 in by June 20th to avoid losing the funding.
16
17 I want to compliment Councillor Archuleta for all the work she did for the events held on
18 Memorial Day.
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21 3. City Manager
22 A. Other Items - Information Only
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24 None given.
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28 **Meeting Adjourned at 3:32 p.m.**