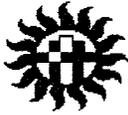


ITEM #1

Regular Meeting
May 21, 2012

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

Regular Meeting

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

Council Chambers, City Hall

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 Pedroza led the Pledge of Allegiance.

Presentation of Certificates of Appreciation/Proclamations.

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

Councillor Pedroza presented a Proclamation to Dr. Kelly Frost and declared May 2012 as Better Hearing Month.

Councillor Pedroza presented a Proclamation to Eric Liefeld and declared May 2012 as National Preservation Month.

Councillor Pedroza presented a Proclamation to Cheryl Hertan and declared June 2, 2012 as Cancer Survivors Day.

Mayor Miyagishima presented Letters of Appreciation to various groups for their participation with the Great American Clean-up.

1
2 Bruce Fonnest presented Appreciation Acknowledgments to the City of Las Cruces from the
3 Vietnam Veterans of America.

4
5
6

7 Mayor Miyagishima read a Closed Meeting Statement and said the Las Cruces City Council met in
8 Closed Session at 4:15 p.m. on May 14, 2012. The following members were in attendance: Mayor
9 Miyagishima, Councillor Silva, Councillor Smith, Councillor Pedroza, Councillor Sorg, Councillor
10 Thomas, City Manager Robert Garza, City Attorney Harry (Pete) Connelly, Assistant City Attorney
11 Rusty Babington, Utilities Attorney Marcy Driggers, Utilities Director Jorge Garcia (present for Item
12 2 only), and Assistant City Manager Mark Winson. The meeting adjourned at 4:59 p.m. and only
13 those limited items as stated in the posted notice were discussed which were (Item 1) a proposed
14 Worker's Compensation Settlement in the matter of Charles Poe and (Item 2) the proposed purchase
15 or acquisition of real estate and water rights.

16
17
18

19 Councillor Silva arrived at approximately 1:25 p.m.

20
21
22

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

27

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

29

30 None given.

31
32
33

34 **III. PUBLIC PARTICIPATION**

35

36 Sharon Grider, Member of the Public said there are issues with coyotes in the levy area. The coyotes
37 are becoming very bold and they are stalking and killing our pets. Some people are having to carry
38 guns for their safety when they are walking in that area which makes for a very dangerous situation.
39 I called Mike Graves with Wildlife and he told me that the City doesn't have a contract with them
40 to deal with the coyote population so I would suggest that you think about doing something about
41 this situation.

1
2 Mayor Miyagishima said our City Manager will take note of it and work with our Police Department
3 to see what we can do about it.

4
5 Councillor Sorg said there have been many programs over the years to try to eradicate coyotes but
6 nothing works so they will keep coming no matter what is done.

7
8 Cecilia Acosta, Member of the Public gave Council a handout and said this year's Senior Olympics
9 will be from July 25th thru July 29th and I would like to ask for your support by the City's Parks
10 Department so we can make these events doable.

11
12 Mayor Miyagishima said this isn't on the agenda so we can't take any action today but I'm glad you
13 submitted a list of what you would need to be done along with your contact information.

DRAFT

14
15 Shirley Baca, Member of the Public said I am one of the new athletes that competed in the Senior
16 Olympics and I am also a new member of the Board so I will be recruiting new members.

17
18 Jack Welch, Member of the Public said I am a member of the Dona Ana County Senior Olympic
19 Board and I want to mention that we do take people who will be 50 by December 31st.

20
21 Isaac Trevino, Member of the Public gave a verbal presentation regarding the Health Care Campaign
22 for the health care crisis.

23
24 Murray Castro, Member of the Public said I have worked with the Health Care Campaign for several
25 years and it is a viable option.

26
27 -----

28
29 **IV. ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY**
30 **AN ASTERISK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON**
31 **BY ONE MOTION.**

32
33 Mayor Miyagishima said Item 1 needs to be removed from the Consent Agenda for discussion.

34
35 -----

36
37 Councillor Smith Moved to Approve the Agenda as Amended and Councillor Small Seconded the
38 motion.

39
40 -----

41

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

3

4

5

6 **V. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA**

7

8 *(2) Resolution No. 12-193: A Resolution Authorizing Las Cruces Senior Programs to Accept
9 a Capital Appropriation from the State of New Mexico Aging and Long-Term Services
10 Department Furnished Through an Emergency Fund Allocation in the Amount of \$5,000.00
11 With No Match Requirement for Asbestos Abatement at East Side Senior Center, to Ratify
12 the City Manager's Signature on the Appropriation Agreement, and to Adjust the FY 2012
13 Budget.

14

15 *(3) Resolution No. 12-194: A Resolution Approving an Agreement Between the City of Las
16 Cruces and SER de New Mexico, Jobs for Progress, Inc., to Continue "At-Risk"
17 Employment Services for High School Age Youth in the Parks and Recreation Department.
18 Total Cost of the Program Will Not Exceed \$42,255.

19

20

21

22 **VI. UNFINISHED BUSINESS**

23

24 *(1) Resolution No. 12-192: A Resolution Adopting the 2012 Strategic Plan for the City of Las
25 Cruces.

26

27 Councillor Thomas Moved to Adopt Resolution No. 12-192 and Councillor Sorg Seconded the
28 motion.

29

30

31

32 Councillor Thomas said I just wanted to take this item off of the Consent Agenda so we could give
33 the public a brief explanation of the plan. The public will be receiving a report very soon on what
34 was accomplished the first two years of working on this plan and our objectives for the next two
35 years.

36

37 Robert Garza, City Manager said we are going to be giving the public a 2012 report that will outline
38 where we are going in the next two years and we are also going to give them a report on how we did
39 with the 2010 report. The reports will be available electronically as well.

40

41 Barbara DeLeon, Senior Management and Operations Analyst said the 2012 plan started with the
42 review of the 2010 plan which included solicited input from Council and staff for new plan goals
43 that fit into a two-year time-frame.

1

2 Councillor Sorg said I didn't see the Wind Erosion Control Ordinance on the list.

3

4 Barbara DeLeon said I believe it was listed under Objective 4 but I will have to go back and look
5 through it then get back to you.

6

7

8

9 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-192 and it was
10 Unanimously Approved. 7-0

11

12

13

14 (4) Resolution No. 12-157: A Resolution Approving a Major Amendment to the Rancho Del
15 Rey Master Plan. The Subject Area is Located Generally East of Roadrunner Parkway,
16 North and South of Settlers Pass; Parcel ID# 02-38952 and 02-07938. Submitted by
17 Underwood Engineering on Behalf of Eddie Binns, Property Owner (S-09-053). (*Postponed*
18 *from March 5, 2012*)

19

20 (*Councillor Silva moved to approve Resolution No. 12-157; Councillor Sorg seconded the motion*
21 *at the meeting of March 5, 2012*)

22

23

24

25 Councillor Thomas Moved to suspend the rules to discuss Item 4 and Item 5 concurrently and
26 Councillor Small Seconded the motion.

27

28

29

30 Mayor Miyagishima called for the roll on the Motion to suspend the rules to discuss Item 4 and Item
31 5 concurrently and it was Unanimously Approved. 7-0

32

33

34

35 Robert Kyle, Building and Development Services Administrator gave an overhead presentation and
36 said the purpose of the Master Plan amendment and zone change is to adjust existing planning parcel
37 boundaries to be in concert with existing zoning and proposed zone changes, to create a planning
38 parcel for open space/recreation purposes, to establish land uses that are consistent with the 2001
39 Zoning Code for the land on and adjacent to the Sandhill Arroyo, to create zoning tracts to be in
40 concert with the proposed planning parcels, to create a true multi-family product with thirty to forty
41 dwelling units per acre around the Sandhill Arroyo, to facilitate an increase in multi-family uses and
42 density in single-family uses and have an increase of 863 to 1,968 dwelling units from the 2004
43 Master Plan amendment. At the March 5th meeting there were concerns brought up regarding the

1 density so staff spoke with the applicant and now the applicant wants to make a revision to the
2 Master Plan and zone change request to address that issue. Essentially, they are changing the number
3 of dwelling units to 1,471 to 2,395 and the number of multi-family and single-family units south of
4 Settlers Pass is changed to 15 to 40 dwelling units per acre so there is an overall reduction of 1,406
5 to 1,587 dwelling units south of Settlers Pass and the commercial, open space and arroyo areas
6 remain unchanged.

7

8 When the Planning and Zoning Commission heard this case in 2011 they did recommend approval
9 of the amendment and the zone change with a number of conditions which were that the park impact
10 fees will be assessed until such time that park is built and may be reimbursed to the developer by the
11 City of Las Cruces, the final design of the park must be submitted and approved by the Facilities
12 Director and/or other official designee prior to any development plans being submitted for planning
13 parcels nine through twenty-two excluding existing approved developments as of November 2010
14 and/or any development beyond Stonegate Two, upon completion of 50% to 75% of the Rancho Del
15 Rey Master Plan area the park identified as Planning Parcel P13 and the 40 foot wide walking path
16 facility will need to be constructed in their entirety, based on the overall dwelling units, the
17 requirements for the acreage could change substantially from the seven acres all the way up to twelve
18 or thirteen acres, the City of Las Cruces Utility Department and the developer will work together for
19 the easement acquisition of the proposed sewer interceptor and the access to the existing proposed
20 sewer interceptors, there will be no further approval of development in the Rancho Del Rey Master
21 Plan area from the Utility Department until the easement acquisition is completed, and it is
22 understood that there is an existing sewer line in proposed Parcel 13 so the location of the park/dual
23 use facility must not negatively affect the sewer line or vice versa and be advised that this is only a
24 conceptual plan so it must be demonstrated that the location of the park/dual use facility and the
25 sewer line is feasible per the City of Las Cruces Design Standards and the increased post-
26 development volume must be retained and the post-development peak flow must not exceed historic
27 flow.

28

29 The remaining half of Roadrunner Parkway from Parkhill Estates to the intersection with Settlers
30 Pass shall be constructed as follows: the portion that fronts the Eagles 1 Subdivision shall be
31 constructed when the Eagles 1 Subdivision is constructed, the portion that fronts the Pine Summit
32 Subdivision shall be constructed when the Pine Summit Subdivision is constructed, the portion that
33 fronts the commercial planning Parcel P6 shall be constructed when either the Eagles 2 or Stonegate
34 2 subdivisions are constructed and the remaining portion of Settlers Pass from the eastern boundary
35 of Stonegate 1 to the eastern boundary of Rancho Del Rey Master Planned Area will be completed
36 prior to any lots being sold in the Stonegate 2 Subdivision.

37

38 At the March 5th meeting Council raised several issues but the biggest issue had to do with
39 Roadrunner Parkway but currently, the City doesn't have any provisions in place to require roadways
40 outside of a development to be built or extended except to provide access and the Rancho Del Rey
41 master planned area does have access from dedicated and accepted roadways. The developer
42 proposes to follow existing adopted policy and construct Roadrunner Parkway within the master plan
43 boundary as needed with/for future subdivision property or pay the required impact fees after January

1 2013. Another issue that was brought up was regarding the drainage and flooding issues with the
2 arroyo. The current policy and State law require historic flow patterns to be maintained so the
3 development must address the difference between pre and post development volumes. The Master
4 Plan is a conceptual document so the specifics of the construction and volume of storage will be
5 addressed in detail with the development applications. There was also an issue brought up regarding
6 the expanded buffer outside of the designated 100-year flood plains but there is no existing adopted
7 City policy that requires an expanded buffer or no-build area outside of flood plains.

8

9 Mayor Miyagishima said the applicant is requesting R3 zoning which has 20 units per acre; correct?

10

11 Robert Kyle said that is correct.

12

13 Mayor Miyagishima said as it sits right now without the zone change the applicant is free to do
14 whatever he needs to do but because he is asking for a zone change Council has the ability to require
15 certain conditions. Roadrunner Parkway is currently a four lane road so if we were to require 50%,
16 couldn't we just require two lanes as the 50%?

17

18 Robert Kyle said that section of Roadrunner Parkway is in Mr. Binns property so essentially he is
19 responsible for 100% of it but as per policy, it will be constructed as the development occurs.

20

21 Mayor Miyagishima said I was referring to the section of Roadrunner Parkway to Highway 70.

22

23 Robert Kyle said under the current policy the applicant is not responsible for that stretch of roadway.

24

25 Mayor Miyagishima said I think that would concern public safety for the residents in that area and
26 that was one of the main reasons why we postponed this issue so I'd like to hear what the applicant
27 has to say regarding it.

28

29 Councillor Thomas said the applicant is now saying that after 2013 the impact fees are going to go
30 into effect so as he develops that property then those fees will be collected and that could eventually
31 go toward the building of the crossing over the arroyo; correct?

32

33 Robert Kyle said that is correct but it's not that he is proposing that it is because in 2013 that will
34 be the adopted policy.

35

36 Councillor Thomas said so any development that is done this year isn't subject to the impact fees.

37

38 Robert Kyle said if a building permit is applied for and granted today then they would be subject to
39 the impact fees of today so if a house exists prior to January 1, 2013 then it would not be subject to
40 those impact fees.

41

42 Councillor Thomas said so it is the pulling of a building permit that triggers the impact fees.

43

1 Robert Kyle said that is correct.

2

3 Councillor Thomas said so all the infrastructure and everything has to be put in before anyone can
4 build there.

5

6 Robert Kyle said that is correct.

7

8 Councillor Thomas said as more and more develop occurs in this area there will be a point when it
9 becomes necessary to have the arroyo crossing constructed so do we know how much that will cost
10 and is there going to be enough funding available at that time?

11

12 Robert Kyle said staff has not done any economic forecasting on that item. That is the proposed
13 policy so whether or not this particular development generates enough funding really isn't the issue.
14 This is a huge area so it won't be developed over night, it will probably take decades before it is fully
15 developed.

16

17 Mayor Miyagishima said I really have a hard time approving a zone change until Roadrunner
18 Parkway is fully completed.

19

20 Robert Kyle said the lock on the impact fees is determined on the final plat and when it is filed. If
21 it is filed prior to the change then it won't be subject to the change for four years. I think Legal will
22 need to answer your issue with the construction of Roadrunner Parkway because according to our
23 policy I don't think we can require him to build that portion of the roadway.

24

25 Robert Garza, City Manager said the total cost estimate for the construction of Roadrunner Parkway
26 to Highway 70 is approximately \$1.46 million. Since we would have a revenue stream from the
27 impact fees, we could go to the bond market to secure the necessary funding.

28

29 Eddie Binns, Applicant said we have hashed and rehashed this and I think Mr. Kyle has done a good
30 job explaining everything. This whole thing started when I wanted to put a park on Settlers Pass and
31 tie it together with some drainage at which time I was told I had to do a master plan for the whole
32 thing. The Planning and Zoning conditions state that the park impact fees will be assessed until such
33 time the park is built and may be reimbursed to the developer by the City. I have a problem with the
34 word "may" because if I am going to build a park up there and spend a million to half a million
35 dollars on it I want to be sure that it is going to be reimbursed to me. I also have an issue with the
36 condition regarding the utilities which states, "the City and the developer will work together for the
37 easement acquisition of the sewer line" and then it states that "there will be no further approval of
38 development in Rancho Del Rey until this easement acquisition is completed". I have been working
39 with the Utilities Department in good faith for two years regarding this easement so to me including
40 this condition is like a form of blackmail or putting pressure on me. This master plan has been set
41 for about thirty years and it has been cleaned up a bit but the purpose of this is so people buying
42 housing in this area will know what is going to be going on in their backyards.

1

2 Mayor Miyagishima said I think they just need to be sure that the sewer line is put where it is needed
3 and it is agreed upon by you and the City.

4

5 Eddie Binns said we already know where it is going to be located. I just want some assurance that
6 as a property owner I won't be held accountable some time down the line for any erosion or wind
7 erosion due to the Dust Ordinance.

8

9 Mayor Miyagishima said I also want to state that in my opinion, I feel that access is needed from
10 Roadrunner Parkway to Highway 70 for public safety.

11

12 Eddie Binns said we are discussing zoning that will take place in the future, it will be ten years or
13 longer before this land gets put use so the impact fees that this generates will provide some funds
14 to ultimately accomplish what you are after.

15

16 Mayor Miyagishima said so you're saying that you are okay with anything south of Settlers Pass not
17 being built until there is access from Highway 70?

18

19 Eddie Binns said I'm telling you that it is intelligent to zone and plan which is what we are doing
20 here today. I'm also telling you that development will probably not take place there for years.

21

22 Mayor Miyagishima said so you would have no problem with us putting that there will be no
23 construction on Settlers Pass until there is access from Highway 70 to Settlers Pass as a condition.

24

25 Eddie Binns said absolutely not, I would not agree to that type of commitment because it is absurd
26 to put the squeeze on me to get me to agree to things that don't meet the current City regulations and
27 codes which is exactly what is going on.

28

29 Councillor Thomas asked are you going to require that the homes have landscaping?

30

31 Eddie Binns said I don't know of any homes that are sold without some type of front yard
32 landscaping but I don't require the backyards to be landscaped any certain way.

33

34 Councillor Thomas said this is a big subdivision so there will probably be a lot more school aged
35 children in the area; do you know how that is going to work?

36

37 Eddie Binns said I do work with the schools and I make them aware of how the area is progressing.
38 There might be a need for a grade school in this area and we will work with the schools to try to
39 accommodate their needs.

40

41 Councillor Thomas said we've received a lot of emails and comments from people who have
42 concerns with things like the arroyo and the completion of Roadrunner Parkway. I think this type of
43 situation underscores why we need impact fees. A lot of the fears are with the fact that you have a

1 lot of developments that are not completed and that you've had a lot of disturbed soil that has sat
2 there for many years which has caused problems with things like covering people's landscapes.
3 There are a lot of people who are very unhappy with what has happened to their property as a result
4 of what you have done with your property. I'm not inclined to approve further planning that is going
5 to result in acres of disturbed soil that is going to have an impact on people's health, their safety and
6 their property.

7

8 Councillor Smith said maybe we should hear from the City Manager on how we could change the
9 language regarding the park impact fee reimbursement.

10

11 Brian Denmark, Assistant City Manager said the wording is written that way because we are only
12 talking about a master plan at this time. The City does plan to bring a resolution to Council that
13 enters into an agreement with Mr. Binns as to how he will build the park and how the City will
14 reimburse him. The challenge we have is that we don't know the full build out yet that will
15 ultimately dictate the park fee collections and we don't know what the amount the impact fee will
16 be due to any fee changes in the future and we also don't know the cost for construction in the future.

17

18 Mayor Miyagishima said Mr. Kyle, so we can't put a condition that the road has to be fully built out
19 in its entirety because that is his property?

20

21 Robert Kyle said that section is within his property.

22

23 Mayor Miyagishima said since it will take some time then that would give us time to get that section
24 built out to Highway 70 but by having that condition then by the time he is ready then we would be
25 ready.

26

27 Robert Kyle said the Council could put that condition on there but it wouldn't be consistent with City
28 policy.

29

30 Mayor Miyagishima said I think it has to be done that way for the public's safety and so that he
31 would do his portion and we would do our portion.

32

33 Councillor Sorg said Parcel P15 is in the arroyo so does that parcel get turned over to the City or
34 does it remain with the owner?

35

36 Robert Kyle said the arroyo is currently owned by Mr. Binns so it will remain his until he decides
37 to dedicate the arroyo to the City.

38

39 Councillor Pedroza said it seems to me that condition three is loosely written and it would be hard
40 for me to approve something that has that much leeway.

41

1 Robert Kyle said I agree but it was not part of Planning and Zoning conditions. That was what was
2 recommended but I don't think it would be out of the bounds for Council to work with the applicant
3 to try to tie that number down.

4

5 Councillor Pedroza said I do agree with the Mayor that before any more homes are built into that
6 section that the road be completed.

7

8 Ken Murray, Member of the Public said I am with the Four Hills Watch Group and some of our
9 members live on the arroyo. If you start pinning up water in the arroyo then it will cause more
10 damage to people's property than what would occur naturally. I think the Mayor is correct in that we
11 need to have that street completed due to the number of people who will be in this area.

12

13 Mary Jenke, Member of the Public said my concern is that our parcel which is in the triangle area
14 west of Roadrunner, was originally flood control and should stay flood control. It would be a
15 beautiful place for a park so maybe you could only do a partial zoning approval so we could just get
16 the park.

17

18 Susan Williams, Member of the Public said I live close to the triangle area and the area below that
19 is zoned R1-A and there are a lot of drainage problems in that area. I would like to see our zoning
20 going back to R1 or leave it as a park.

21

22 Dianne Thorgeson, Member of the Public said there would only be two access points to this area and
23 they would have to go through residential areas to develop this land. I attended a meeting on March
24 5th and it was my impression that the park area will be anywhere from 7 to 13 acres but closer to 7
25 acres so I spoke with my representative and he told me that the park size was determined by the
26 population in that area; would that be the population prior or after that new development?

27

28 Mayor Miyagishima said I think it is the proposed dwellings in the area.

29

30 Dianne Thorgeson asked is there anyway to keep it at the maximum?

31

32 Mayor Miyagishima said I don't think so because it wouldn't be fair to keep him at 3,000 units when
33 he only builds 1,600 units.

34

35 Mayor Miyagishima asked if the zone change went through would Settlers Pass be fully built-out
36 before he starts to sell any lots?

37

38 Robert Kyle said no, not under our current policy. I want to remind Council that this is only a master
39 plan which is a conceptual plan so it is not a permit to turn dirt or build homes. Once the developer
40 submits for the permits then it will trigger things like the impact study.

41

42 Mayor Miyagishima said I think we need to place another condition on this which is that he must
43 complete Settlers Pass prior to the selling of any lots.

1
2 Chief Brown, LCFD said we have already conditioned this development to require the build-out of
3 Settlers Pass. Under the Fire Code there is a limit on the amount of homes that can be constructed
4 prior to a secondary access being provided so that would come during the actual development and
5 through the subdivision process.
6
7 Robert Kyle said the roads being built is not really a function of zoning, it is a function of what
8 development occurs within that zoning so that is why road improvements are tied to development
9 applications.
10
11 Mayor Miyagishima said I just want to assure the public that Settlers Pass will be built-out before any
12 lots are sold.
13
14 Councillor Silva asked do you think this condition needs to be included in the wording?
15
16 Robert Kyle said if it is that important to Council then you could include that condition but it states
17 in the resolution that Settlers Pass would be build-out to the eastern boundary before any lots were
18 sold.
19
20 Councillor Silva said I think the Mayor wanted it to be built-out all the way to Rinconada not just
21 to the property boundary.
22
23 Robert Kyle said it is already built-out to Rinconada.
24
25 Eddie Binns said if you want to put a rider on there that states that Settlers Pass will be built-out
26 prior to any development taking place south of Settlers Pass then that is fine because it will be done.
27
28 Mayor Miyagishima said I wasn't talking about south of Settlers Pass, I was talking about north of
29 Settlers Pass.
30
31 Eddie Binns said we are talking about the zoning for south of Settlers Pass.
32
33 Mayor Miyagishima asked so you don't want any zoning north of Settlers Pass?
34
35 Eddie Binns said north of Settlers Pass is already a done deal.
36
37 Mayor Miyagishima said I was also wanting from Settlers Pass to most point of ownership of your
38 land on Roadrunner Parkway be required before any construction takes place.
39
40 Robert Kyle said Settlers Pass is built to standard to the eastern boundary of this development. There
41 is zone changes requested north of Settlers Pass but it is just for a slight boundary shift.
42

1 Mayor Miyagishima said so that isn't enough for us to put that condition on Settlers Pass?

2

3 Robert Kyle said I feel that would be stepping a little beyond our requirements.

4

5 Mayor Miyagishima said I feel this is necessary for emergency responders to have access to this area.

6

7 Robert Kyle said I'm not telling Council that you cannot impose those conditions but it could put
8 the City in a position should the applicant seek to appeal that decision.

9

10 Mayor Miyagishima said that is fine and if District Court chooses to overturn us then they should
11 take the liability if anything happens.

12

13 Robert Kyle said my concern is that the City has adopted policies and zoning standards in place and
14 the applicant is simply trying to play by those rules. If this is a concern of Council then I think staff
15 needs to be given direction to examine the rules and see what changes can be made for this type of
16 situation.

17

18 Mayor Miyagishima said if the applicant leaves this property alone then we'd just leave the zoning
19 as is and go home. We wouldn't be able to put any requirements on it and he can do whatever he
20 wants within his property. He is asking us to change the zoning and I believe it is on us to make sure
21 our future and current residents are safe.

22

23 Councillor Sorg said I agree, we are talking about a safety issue here and if our rules and regulations
24 don't fit this situation then we should wait because I'm not comfortable passing this with all of these
25 issues.

26

27 Carol Elder, Member of the Public said I live in the Pines area and we really do need the south
28 section of Roadrunner to Highway 70 because I believe there is an increase in traffic due to the
29 overpass being built and there will be even more traffic with this new development. In my area Mr.
30 Binns built a small ponding area at the end of our street and when it rains there is about three feet
31 of water that goes through the drains and there is a lot of debris that is also carried down the street
32 by the rain water so I don't know what he plans to do for this new area.

33

34 Mayor Miyagishima asked do we allow water to run down neighborhood streets?

35

36 David Weir said I would have to look at the drainage for that area but some amount of water is
37 allowed to go down the sidewalk area to the gutters.

38

39 Carol Reynolds, Member of the Public said I am a residents of the Pines area and I have seen the
40 ideas of Council be put aside because they conflict with City policy so I would like to see this
41 situation tabled then Council can go back and look at changing the policies.

42

1 Mayor Miyagishima said I understand what you're saying but even if we did change the policies we
2 couldn't make the developer abide by the new policies because that wouldn't be fair to him.

3

4 Jennifer Poor, Member of the Public said Mayor Pro-tem Thomas said she didn't understand why
5 an area in a flood zone was being changed to R2; a flood zone is a flood zone and changing the R
6 isn't going to deal with the fact that it needs to continue to be a flood zone. I also agree with the road
7 issue because in order to get into any of these areas the traffic has to go through neighborhoods.

8

9 Councillor Smith said we are only looking at a master plan here and the actual permitting process
10 would allow us to put conditions so we could do the conditions at that time.

11

12 Mayor Miyagishima said it wouldn't be a requirement unless we put it on there now because once
13 he asked us to change the zoning he opened the door for us to address these issues.

14

15 Councillor Smith asked Mr. Binns, is there some way we can assurance from you that before any
16 work begins that Settlers Pass would be finished?

17

18 Eddie Binns said there is currently an ordinance that lets the development of Settlers Pass take place
19 and it spells out that there will be no further development in that area until Settlers Pass is built all
20 the way through.

21

22 Mayor Miyagishima said so you don't have a problem with the condition of requiring Settlers Pass
23 including the north portion, to be completed prior to any development taking place.

24

25 Eddie Binns said that is correct.

26

27 Mayor Miyagishima said what about the condition of building out Roadrunner Parkway?

28

29 Eddie Binns said you are wanting to put a condition on this section of the property that concerns the
30 other section of the property.

31

32 Mayor Miyagishima said the City would pay 50% of the arroyo crossing and then the Council could
33 decide if we should seek some future bonding to complete that section to Highway 70.

34

35 Eddie Binns said I would just ask Council to consider that some of the things you are trying to put
36 on this are above and beyond the current building standards which we are currently operating under
37 and are required to do.

38

39 Mayor Miyagishima said you are asking us to change the zoning so if you weren't asking us to
40 change the zoning then we couldn't ask you do anything.

41

42 Eddie Binns said it doesn't make sense for me to build that road and it just dead end.

1
2 Mayor Miyagishima said just let us know when you are ready to build that road and at that time
3 Council can look at our options and try to find the funding to finish it to Highway 70.
4
5 Eddie Binns said it doesn't make sense to require me to build that section of the property first before
6 I can develop the other side of the property.
7
8 Mayor Miyagishima said that is what I am saying.
9
10 Eddie Binns said that is why I am disagreeing with you.
11
12 Mayor Miyagishima said it is up to the Council but I think this is a way to make sure it is completed.
13
14 Councillor Sorg said I am concerned with unfinished roads but I think we can come up with an
15 agreement to get Roadrunner done before too much development takes place in that area. I am more
16 concerned about the arroyo and how close you can build next to arroyos.
17
18 Councillor Thomas said we want to have Settlers Pass and Roadrunner completed and I want to have
19 some assurance that no work involving the movement of soil is done until the Wind Erosion
20 Ordinance is in place.
21
22 Robert Garza said the Wind Erosion Ordinance will be before Council for the 1st read on July 2nd.
23
24 Councillor Thomas said Mr. Binns gets the most complaints about issues with disturbed land and
25 the problems it causes for the neighborhoods. I think it would be disrespectful to allow anymore
26 developments by this developer given his past history.
27
28 Mayor Miyagishima said I don't think we could hold off until that ordinance passes. We either
29 approve this with the conditions or we deny it. So Mr. Binns, are you going to have Roadrunner
30 done?
31
32 Eddie Binns said Roadrunner will be done to the arroyo with four lanes and Settlers Pass will be
33 built out when any development takes place in that area.
34
35 Mayor Miyagishima said you don't feel you need to redo the other section of Settlers Pass?
36
37 Eddie Binns said that was done to Code and I worked with the City to grant them an easement so it
38 could be done by the movie people and it does provide a secondary access point for the other
39 neighborhood that only had Rinconada as their access point.
40
41 Mayor Miyagishima said this is our opportunity to right a wrong so we need to know what Council
42 wants to do; are we going to require Mr. Binns to entirely build-out Settlers Pass in order to get the

1 zone change north of Settlers Pass and are we going to require him to build-out Roadrunner Parkway
2 to the arroyo or across the arroyo prior to developing south of Settlers Pass?

3

4 Councillor Smith said Mr. Binns stated that he would finish Settlers Pass all the way through prior
5 to any further development and that is all that I feel comfortable asking of him at this time. We can
6 address the issue with Roadrunner Parkway at the time he does the permitting for that area.

7

8 Councillor Thomas said I know this is the only the Master Plan but this is the only time that this
9 body gets to look at it so if there is something that we are uncomfortable with then this is the time
10 to address it. I think Settlers Pass needs to be completed and Roadrunner needs to be completed over
11 the arroyo before anything goes on south of Settlers Pass.

12

13 Robert Kyle said I would recommend that if Council puts a condition on Settlers Pass that it be put
14 as number eight on the master plan resolution.

15

16 Mayor Miyagishima said the next question is do we have him build-out Roadrunner to the arroyo
17 or across the arroyo?

18

19 Councillor Silva said I heard Mr. Binns state that there would not be any type of build-out until he
20 crossed the arroyo to his property line on Roadrunner.

21

22 Mayor Miyagishima said so where the roads end on Roadrunner Parkway, that will be built to four
23 lanes and from the arroyo to your property line on Roadrunner Parkway, all that area that you are
24 requesting to change the zoning from R4 to R3 will not be built until you build the arroyo and the
25 road; correct?

26

27 Eddie Binns said that is correct.

28

29 Councillor Pedroza asked Robert, would it be appropriate to add another item to the Master Plan
30 which would put in writing that Mr. Binns agrees to build Roadrunner to the end of his property?

31

32 Eddie Binns said I agree to build it to the edge of the arroyo and then build it to the edge of the
33 property before we do any development south of the arroyo.

34

35 Councillor Thomas asked so where would we put these conditions?

36

37 Robert Kyle said I would recommend that they be placed on the Master Plan.

38

39

40

41 Councillor Smith moved to Amend Resolution No. 12-157 to add Condition #8, under subsection
42 II that indicates "Settlers Pass to be built-out in its entirety with any development application

1 submitted within the Master Plan area". Condition #9 "Roadrunner Parkway to be built to City
2 standard to the arroyo or to the Sandhill Arroyo with development application for any properties
3 south of Settlers Pass and nothing south of the arroyo to be submitted until the arroyo crossing and
4 Roadrunner Parkway is constructed to the southern boundary in accordance to City standards" and
5 Councillor Pedroza seconded the motion.

6

7

8

9 Mayor Miyagishima said I would like to make sure that it is a four lane road.

10

11 Robert Kyle said yes, it could be a six lane road.

12

13 Mayor Miyagishima said well at least a minimum of four lanes.

14

15 Councillor Thomas said it should also have sidewalks and bike lanes.

16

17 Mayor Miyagishima said so that would be a friendly addition to your motion and second; is that
18 correct Councillor Smith and Councillor Pedroza?

19

20 Councillor Smith said yes.

21

22 Councillor Pedroza said yes.

23

24

25

26 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 12-157 to add
27 Condition #8, under subsection II that indicates "Settlers Pass to be built-out in its entirety with any
28 development application submitted within the Master Plan area". Condition #9 "Roadrunner
29 Parkway to be built to City standard to the arroyo or to the Sandhill Arroyo with development
30 application for any properties south of Settlers Pass and nothing south of the arroyo to be submitted
31 until the arroyo crossing and Roadrunner Parkway is constructed to the southern boundary in
32 accordance to City standards" and include that it be a minimum of four lanes with sidewalks and
33 bike lanes and it was Unanimously Approved. 7-0

34

35

36

37 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 12-157 as Amended
38 and it was Unanimously Approved. 7-0

39

40

41

1 (5) Council Bill No. 12-029; Ordinance No. 2651: An Ordinance Approving Multiple Zone
 2 Changes for 120.535 ± Acres of Land Located Within the Rancho Del Rey Master Planned
 3 Area; Generally East of Roadrunner Parkway, North and South of Settlers Pass; Parcel ID#
 4 02-38952. Submitted by Underwood Engineering on Behalf of Eddie Binns, Property Owner
 5 (Z2814). *(Postponed from March 5, 2012)*

6
 7 *(Councillor Smith moved to approve Council Bill No. 12-029; Ordinance No. 2651; Councillor*
 8 *Small seconded the motion at the meeting of March 5, 2012)*

9
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11
 12 Councillor Smith Moved to Adopt Council Bill No. 12-029; Ordinance No. 2651 and Councillor
 13 Small Seconded the motion.

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17 Robert Kyle, Building and Development Services Administrator said there would need to be an
 18 amendment if Council grants the applicant's request for a zone change from A2 to R3.

20 Councillor Thomas said I have questions regarding Tract R because we are removing it from the
 21 flood control to multi-family density.

23 Mayor Miyagishima said if land is in the flood zone then you would have to bring in a lot of dirt to
 24 build it up in order for it to be approved by FEMA.

26 Robert Kyle said the 100 year flood plain is a very small portion of this property and it was just
 27 zoned A1 with the rest of the property. Any development that happens in that parcel that touches the
 28 100 year flood plain area would have to go through the process with FEMA.

30 Mayor Miyagishima said however, he won't do any development until he builds the road and the
 31 arroyo crossing; correct?

33 Robert Kyle said that is correct.

35 Councillor Thomas said there are people who are concerned with the erosion in the area and there
 36 are also people who just want to keep that area in its natural state. There would have to be steps
 37 taken to mitigate the erosion before any development could move forward; correct?

39 Robert Kyle said I believe that is an accurate statement.

41 -----

1 Councillor Smith Moved to Amend Council Bill No. 12-029; Ordinance No. 2651 to change Tract
2 L 21.488 ± acres from A2 (Rural Agricultural) to R3 (Multi-Dwelling Medium Density) and Tract
3 N 51.711 ± acres from A2 (Rural Agricultural) to R3 (Multi-Dwelling Medium Density) as reflected
4 on slide 8 of 21 of the presentation and Councillor Small Seconded the motion.

5

6

7

8 Councillor Thomas said I still have concerns that houses built in that area could be washed away.

9

10 Mayor Miyagishima said he would have to follow the City standards and FEMA regulations.

11

12

13

14 Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 12-029; Ordinance
15 No. 2651 to change Tract L 21.488 ± acres from A2 (Rural Agricultural) to R3 (Multi-Dwelling
16 Medium Density) and Tract N 51.711 ± acres from A2 (Rural Agricultural) to R3 (Multi-Dwelling
17 Medium Density) as reflected on slide 8 of 21 of the presentation and it was Approved. 6-1
18 Councillor Silva, Councillor Smith, Councillor Pedroza, Councillor Small, Councillor Thomas and
19 Mayor Miyagishima voted Aye. Councillor Sorg voted Nay.

20

21

22

23 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 12-029; Ordinance
24 No. 2651 as Amended and it was Approved. 4-3. Councillor Silva, Councillor Smith, Councillor
25 Small and Mayor Miyagishima voted Aye. Councillor Pedroza, Councillor Sorg and Councillor
26 Thomas voted Nay.

27

28

29

30 **VII. BOARD APPOINTMENTS**

31

32 Mayor Miyagishima reappointed Fred Schneider (Vietnam Veteran position), Darrell H. Angel
33 (VFW Post 10124 position) and appointed Robert W. Laubenthal (VFW Post 6917 position) to the
34 Veterans Advisory Board.

35

36

37

38 Councillor Small Moved to Approve the Mayor's board re-appointments of Fred Schneider
39 (Vietnam Veteran position), Darrell H. Angel (VFW Post 10124 position) and appointment of
40 Robert W. Laubenthal (VFW Post 6917 position) to the Veterans Advisory Board and Councillor
41 Sorg Seconded the motion.

42

43

1
2 Mayor Miyagishima called for the roll on the Approval of the Mayor's board reappointments of Fred
3 Schneider (Vietnam Veteran position), Darrell H. Angel (VFW Post 10124 position) and
4 appointment of Robert W. Laubenthal (VFW Post 6917 position) to the Veterans Advisory Board
5 and it was Unanimously Approved. 7-0

6

7

8

9 Mayor Miyagishima appointed James (Jim) R. Moore (District 3) to the Art on Loan Program Ad-
10 Hoc Committee.

11

12

13

14 Councillor Small Moved to Approve the Mayor's board appointment of James (Jim) R. Moore
15 (District 3) to the Art on Loan Program Ad-Hoc Committee and Councillor Pedroza Seconded the
16 motion.

17

18

19

20 Mayor Miyagishima called for the roll on the Approval of the Mayor's board appointment of James
21 (Jim) R. Moore (District 3) to the Art on Loan Program Ad-Hoc Committee and it was Unanimously
22 Approved. 7-0

23

24

25

26 **VIII. GENERAL DISCUSSION**

27

28 1. Mayor

29

30 Mayor Miyagishima said I am having my semiannual lunch with the Mayor which will be on May
31 24th at 1:00 p.m. at Happy Dog. The public is also invited to the portrait unveiling of former Las
32 Cruces Mayor Albert N. Johnson on May 26th at 10:00 a.m. and it will be held here in City Hall.

33

34

35

36 2. City Council

37

38 Councillor Silva said the bike path on Triviz that goes underneath the overpass doesn't have very
39 good signage and it would be nice to have a sign that simply states "enter here." I would also like
40 to have an update on the bicycle trails because it would be nice to see everything that is going on.

41

42 It would be nice if we could get a Brown Farm update prior to it being brought forward.

1
2 I have had people come up to me regarding Triviz and Walnut where they have placed tall cones to
3 block the traffic on Triviz. This is causing traffic to get so backed up that you can't make a left turn
4 onto Walnut.

5
6 -----
7
8 Councillor Silva left at approximately 5:37 p.m.

9
10 -----
11
12 Councillor Smith said we recognized Stella Melendrez two weeks ago and unfortunately she lost her
13 battle with cancer this morning so our hearts go out to the Melendrez family.

14
15 I saw the screening for the movie The Harp on Saturday which was filmed in Las Cruces and in El
16 Paso and we received a very nice poster for the City's support that is hanging in Udell Vigil's office.

17
18 -----
19
20
21 Councillor Pedroza said the School Garden Partnership is asking for a resolution to establish a Farm
22 to School Program in the City of Las Cruces which I believe is in compliance with the Sustainability
23 Plan and complies with our Strategic Plan. This resolution would allow City staff to partner with the
24 schools to help with the program, the City would provide background checks free of charge or
25 provide the funding for the background checks, the City would support efforts to hire a Farm to
26 School Coordinator, the City would encourage the Legislature and the State to fund Farm to School
27 efforts and that the City would act as the fiscal agent.

28
29 I want to mention that yesterday I attended the HIV Memorial Candlelight Vigil at Young Park and
30 it was a beautiful memorial.

31
32 This morning I saw some of the baby ducks and humming birds at Young Park.

33
34 -----
35
36 Councillor Small said I attended the Tech Nex Forum that was held by MVEDA and there was a
37 dynamic group of speakers at the event. I think it would be good for Council to get updates regarding
38 this topic.

39
40 I think the Farm to School initiative is a good and exciting one and I look forward to seeing it move
41 forward.

42
43 I sent congratulations to Chief Williams because there have been several highly stressful incidents

1 that his staff has been able to handle due to their excellent training.

2

3 I want to thank Mr. Denmark for keeping up the partnership with the Shot Gun Range.

4

5 -----

6

7 Councillor Small left the meeting at approximately 5:46 p.m.

8

9 -----

10

11 Councillor Sorg said I'd like to ask Chief Williams if having people carrying guns to protect
12 themselves from the coyotes in the city will cause any problems?

13

14 Chief Williams, LCPD said we do have an ordinance in place that prevents the shooting of a firearm
15 within the City and within 100 feet of a dwelling.

16

17 Councillor Sorg said regarding the Wind Erosion or as I'd like to call it the Private Property
18 Protection Act, I received an email from a resident who lives in the East Mesa area that stated that
19 people are driving their four-wheel vehicles on a lot near her house and it kicks up an enormous
20 amount of dust and she said she can't believe that is legal within the City limits. I receive these types
21 of emails off and on so I hope we can get our Wind Erosion Ordinance in place so we could do
22 something about these types of issues.

23

24 -----

25

26 Councillor Thomas said I also attended the Tech Nex program and it was very interesting. I want to
27 make sure that we are still going to take a look at economic gardening at some point.

28

29 Robert Garza, City Manager said we have that topic scheduled for the August 13th Work Session.

30

31 Councillor Thomas said I saw the film "Ingredient" on Saturday which is about the local food
32 movement. I want to say that I support that and I support the School Gardens and the Farm to School
33 efforts. I think it would be great if the coalition and all the other people that work with those
34 programs could give Council a presentation on what local food is and what we are doing here in our
35 area. I also support the Safe Routes to School program and I hope we are going to get to see our
36 regional plan very soon.

37

38 I just want to mention that next week is Memorial Day so there won't be a Council meeting next
39 week.

40

41 -----

42

43 3. City Manager

Regular Meeting
May 21, 2012

Page 23

1
2 Robert Garza, City Manager said the Wind Erosion Control Ordinance will be before Council for
3 the 1st Read on July 2nd.

4

5 There won't be a Council meeting next Monday because of Memorial Day and the Agenda
6 Setting meeting will be held on Tuesday, May 29th at 1:30 p.m.

7

8

9

10 Meeting Adjourned at 5:54 p.m.

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