



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

Regular Meeting

**August 6, 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

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I. OPENING CEREMONIES

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

Ron Camuñez lead the National Anthem.

Presentation of Certificates of Appreciation/Proclamations.

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

Councillor Silva, Mayor Miyagishima and Robert Garza presented a City of Las Cruces Employee 25th Year Service Award to Marcy Driggers with the Legal Department.

Mayor Miyagishima presented a Distinguished Service Award to Sam Bone, Jr.

Councillor Silva and Mayor Miyagishima presented the Mayor's Citation for Public Service to Brian Claar.

1 Councillor Silva and Mayor Miyagishima presented the Mayor’s Citation for Public Service to Lora
2 Garner, Guille Carranza and Sally Schutte with the Community and Cultural Services Department.

3
4 Councillor Silva presented a Certificate to the Las Cruces Bats Baseball Team and Coach Fermin
5 Alvarado for winning the regional championship.

6
7 Councillor Silva and Mayor Miyagishima presented a Proclamation to Leticia Martinez and declared
8 August 6, 2012 as Leticia Martinez Day.

9
10 Councillor Silva presented a Proclamation to Kari Lenander and declared August 20, 2012 as Border
11 Servant Corps Commemorating 15 Years of Service on the US/Mexico Border.

12
13 Councillor Silva presented a Proclamation to Audrey Hardman-Hartley and declared August 21,
14 2012 as Mountain View Regional Medical Center Day.

15
16 Xochitl Torres Small with Senator Tom Udall’s office gave a presentation on Water Research and
17 Resource Institute’s 57th Annual Water Conference.

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

25
26 Mayor Miyagishima asked if anyone had any conflicts with anything on the agenda?

27
28 Mayor Miyagishima said regarding Item 16, I insure that condominium building as well as some of
29 the people there and Mr. Whatley was a former realtor of mine but I don’t have any current contracts
30 with him.

31
32 Council agreed there was no conflict for Mayor Miyagishima.

33
34 -----

35
36 **III. PUBLIC PARTICIPATION**

37
38 None given.

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

4
5 Mayor Miyagishima said Items 4, 6, 7 and 12 need to be removed from the Consent Agenda for
6 discussion.

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10 Councillor Smith Moved to Approve the Agenda as Amended and Councillor Sorg Seconded the
11 motion.

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

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20 **V. CITY COUNCIL MINUTES**

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22 *(1) Regular Meeting of July 2, 2012

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

27
28 *(2) Resolution No. 13-010: A Resolution Authorizing the City of Las Cruces, on Behalf of Its
29 Fire Department, to Accept Various Emergency Preparedness Equipment Valued at
30 \$195,327.00 Pursuant to a Grant Funded By the United States Department of Homeland
31 Security, Office of State and Local Government Coordination and Preparedness Through the
32 New Mexico Department of Public Safety, Office of Emergency Management and the Doña
33 Ana County / City of Las Cruces Office of Emergency Management for FY 2010 and to
34 Ratify the City Manager's Signature on the Agreement to Accept the Equipment.

35
36 *(3) Resolution No. 13-011: A Resolution to Accept Grant Funding in the Amount of \$2,550.00
37 on Behalf of the City of Las Cruces' Fire Department From the New Mexico Department of
38 Homeland Security and Emergency Management, to Ratify the Assistant City Manager's and
39 the City Manager's Signatures on the Sub-Grant Agreement, and to Adjust the FY 2013
40 Budget.

41

- 1 *(5) Resolution No. 13-013: A Resolution Accepting a Grant From the New Mexico Department
2 of Transportation, Local Government Road Fund Program, Fiscal Year 2012/2013, in the
3 Amount of \$39,804.00 for the Telshor Boulevard A.D.A. Improvements Project and to
4 Amend the Fiscal Year 2012/2013 Budget. A \$13,268.00 City Match is Required.
5
- 6 *(8) Resolution No. 13-016: A Resolution Authorizing Las Cruces Senior Programs to Accept
7 a Nutrition Service Incentive Program (NSIP) Agreement for Cash-in-Lieu of Commodities
8 from the North Central New Mexico Economic Development District Non-Metro Area on
9 Agency for FY 2013 in the Amount of \$159,446.00 with No Match Requirement, to Ratify
10 the City Manager's Signature on the Agreement, and to Adjust the FY 2013 Budget.
11
- 12 *(9) Resolution No. 13-017: A Resolution Authorizing the Las Cruces Museum of Art to Accept
13 a Grant Agreement from the State of New Mexico Department of Cultural Affairs, New
14 Mexico Arts Division \$6,613.00 with a \$1,653.00 Cash Match and a \$1,654.00 In-Kind
15 Match Requirement, to Ratify the City Manager's Signature on the Agreement, and to Adjust
16 the FY 2013 Budget.
17
- 18 *(10) Resolution No. 13-018: A Resolution Authorizing the Las Cruces Museum of Nature and
19 Science to Accept an Amended Grant Award from Bureau of Land Management (BLM)
20 Increasing the Original Award by \$18,000.00 to a Total of \$218,000.00 with No Match
21 Requirement, to Ratify the City Manager's Signature on the Amended Agreement, and to
22 Adjust the FY 2013 Budget.
23
- 24 *(11) Resolution No. 12-13-323: A Resolution Authorizing the Fifth Year of a Five-Year Contract
25 for Airport Architectural and Engineering Services to Delta Airport Consultants, Inc., of
26 Albuquerque, New Mexico.
27
28
29

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31 **VII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION**
32

- 33 *(4) Resolution No. 13-012: A Resolution Allowing the City of Las Cruces Police Department
34 (LCPD) to Sell Firearms by Utilizing the City's Online Auction Web Site With Public
35 Surplus, a Utah Based Company.
36

37 Councillor Thomas Moved to Adopt Resolution No. 13-012 and Councillor Sorg Seconded the
38 motion.
39

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41
42 Loretta Reyes, Public Works Director gave an overhead presentation and said there have been
43 numerous firearms purchased over time and all the firearms on this list are in storage and not in use.

1 The Police Department desires to distribute updated equipment to their officers and other local
2 agencies do not currently issue these firearms to their officers so they are requesting that they be sold
3 on our Public Surplus Auction website. Only licensed dealers who currently hold a Federal Firearm
4 License can bid on these firearms and they would have to personally pickup the firearms at the Las
5 Cruces Police Department. The weapons available are typical handguns, rifles, and revolvers.

6

7 Mayor Miyagishima said these are expired police weapons and the person would have to come and
8 pick them up in person; correct?

9

10 Loretta Reyes said that is correct.

11

12 Councillor Smith said we're expecting about \$70,000 to \$100,000 from the sale of these firearms
13 but no amount of money would ease my conscience if we allowed these weapons to fall into the
14 hands of some who would harm or kill innocent victims.

15

16 Officer Nunley said once the firearms are bought by someone with the Federal Firearms License they
17 are responsible for them.

18

19 Councillor Smith asked is there anyway we can make sure these weapons are only given to other law
20 enforcement agencies?

21

22 Officer Nunley said no.

23

24 Councillor Smith asked are there any guidelines for the disposal of these weapons?

25

26 Officer Nunley said I spoke with the ATF this morning and they stated that each entity is responsible
27 for their own destruction but you can fill out a form for type two weapons which are for select fire
28 weapons and once they acknowledge it and send it back then they can be melted down or chomped
29 up.

30

31 Councillor Small asked are we getting rid of these weapons because there is a need for updated
32 weapons for our police force?

33

34 Officer Nunley said yes, we need to purchase new weapons for our current officers and our recruits.

35

36 Councillor Small said you don't have to answer this right now but I would like to know how much
37 of the funds from these sales are going toward the purchase of the new weapons and I think hearing
38 where we can distribute these weapons is an important feature. I would also like to have a time-frame
39 on the purchase of the new weapons.

40

41 Councillor Sorg asked have you asked any other law enforcement agencies if they would be
42 interested in purchasing these weapons?

1
2 Officer Nunley said yes, but a lot of the agencies are also updating their weapons.
3
4 Deputy Police Chief Montoya said most of the agencies are using other types of updated weapons.
5
6 Councillor Sorg said can't we ask other agencies, like Hobbs, if they'd be interested in these
7 weapons at a discounted price?
8
9 Chief Williams said we are moving to a new weapons system for a reason and many of the other
10 agencies are also updating their weapon systems.
11
12 Councillor Sorg said if no other agency can use them then I would agree with just disposing of all
13 these weapons so they wouldn't end up in the wrong hands.
14
15 Chief Williams said these will only be sold to people with a Federal License and they would have
16 to follow all the laws and regulations in selling these weapons to other individuals.
17
18 Mayor Miyagishima said my father had twenty-five years of law enforcement experience and I was
19 able to see some of their training footage which included a shoot-out that officers only had pistols
20 and the bank robbers had bullet proof vests and high quality firearms so we don't want the bad guys
21 to have better weapons than our officers.
22
23 Councillor Pedroza said I understand that only people with Federal Licenses will be able to buy these
24 weapons but there is no guarantee that these weapons won't end up in the wrong hands so maybe we
25 should just destroy them.
26
27 Mayor Miyagishima said we could just remove the machine guns and sell the other weapons.
28
29 Councillor Thomas asked how much would the new weapons cost?
30
31 Chief William said about a year ago we purchased 25 rifles and it was about \$52,000 so all the
32 money we receive from this sale could go toward the purchase of the new weapons.
33
34 Councillor Thomas asked is the \$70,000 to \$100,000 just a drop in the bucket or will it cover the
35 the amount we will need to purchase all the new weapons?
36
37 Officer Nunley said this is a continuous cost; if we have an academy with fifteen people then it
38 would cost about \$20,000 for sidearms and equipment and about another \$25,000 to \$30,000 for
39 rifles and equipment for those rifles so this is a continual yearly cost.
40
41 Councillor Thomas said there are always issues with the selling of firearms, like the selling of them
42 at Gun Shows, and that is something that concerns me.
43

1 Chief William said anyone can go into a sporting goods store and purchase a 45 or 9 mm today.
2
3 Councillor Thomas asked is it a common practice for law enforcement entities to sell weapons?
4
5 Sergeant Dole said yes.
6
7 Councillor Thomas said I'm just uncomfortable with making more guns available.
8
9 Mayor Miyagishima said I understand your concerns but we do need to make sure our officers have
10 updated weapons.
11
12 Councillor Silva said I do appreciate the Chief upgrading our weapons system and it is a Right to
13 Bear Arms but how do we make sure they don't end up in Mexico? Are we going to have someone
14 in-house that is going to go through the certifications or are we going to rely on this company from
15 Utah to conduct the certification process for the people who will be bidding on these guns?
16
17 Deputy Chief Montoya said Bently from Purchasing will be in charge of making sure they have all
18 the required paperwork and he is going to be our point of contact for the auction.
19
20 Councillor Silva asked have we ever done this type of weapon sale?
21
22 Deputy Chief Montoya said no.
23
24 Councillor Silva asked has any other agency done it?
25
26 Sergeant Dole said yes, there are several agencies that have done it.
27
28 Councillor Silva asked have any agencies nearby done it?
29
30 Sergeant Dole said yes, I know Albuquerque and the New Mexico State Police have done it.
31
32 Councillor Small said there is an enormous amount of support for having updated weapons for our
33 officers and since this is the first time this type of sale has been proposed in the City there would be
34 a lot of scrutiny. The fundamental fact is that all of these types of weapons are available for public
35 purchase. The select-fire which is when somebody can choose one bullet or multiple rounds fired,
36 that is when you are getting into assault rifle or machine gun issue and it seems like there might need
37 for an amendment to be made to remove those from this sale.
38
39 Councillor Sorg said I do want our Police Officers to have the best protection possible and I don't
40 want this to be a matter of money because we are not hurting for money in the City. It's the thought
41 that maybe one of these guns might be used in a crime that has us concerned.
42

1 Councillor Smith said I would suggest that we look at the weapons that could be used for concealed
2 carries and put those out there but anything that is automatic or semi-automatic would not be
3 included in the auction.

4

5 Councillor Small said I would also look at withdrawing the ones with the selective fire mechanism.

6

7 Councillor Smith said I think we need more information on those types of weapons.

8

9 Alan Solomon, Member of the Public said I do support the Second Amendment Right but most
10 modern Police Departments destroy their weapons so I am against this proposed sale.

11

12 Shawna Brown, Member of the Public passed out a proposal and said I am with Dickerson's Auction
13 and we follow the law and have been doing auctions for forty years. We have a spotless record with
14 the ATF and they inspect us regularly as well as come in and watch our whole process. We sell the
15 guns from the Dona Ana County Sheriff's office every year and we also take guns from Deming,
16 Luna County, Game and Fish and the New Mexico State Police. I would recommend that you table
17 this item to give you time to make sure everything is looked at and considered for the best interest
18 of all the organization.

19

20 Ron Camunez, Member of the Public said I think we're losing focus on what this is really about
21 because we are turning the selling of guns into a gun issue. The longer you wait then the older these
22 guns get and the less you will get for them.

23

24 Scott Hill, Member of the Public said if these were automobiles then we wouldn't be having this
25 discussion. This isn't a gun control issue, these are assets that you can sell and there is no reason to
26 destroy them.

27

28 Mayor Miyagishima said maybe we should just keep the machine guns and sell the others.

29

30 Councillor Smith said maybe we should think about tabling this item or get some specific language
31 and information on these weapons for an amendment.

32

33 Deputy Chief Montoya said the list of weapons includes semi-automatic pistols which are listed in
34 group 1, group 2 are also semi-automatic pistols, group 3 are sniper rifles, group 4 are the pull once
35 trigger and semi-automatic pistols and revolvers, groups 5, 6, 7, 8 and 9 are select fire guns.

36

37 Councillor Pedroza said I would appreciate tabling this to give me time to absorb all this
38 information. I just can't see making machine guns available to the public and I think they should just
39 be destroyed.

40

41 Councillor Small said I would recommend that we exclude groups 5, 6, 7, 8 and 9.

42

1 Mayor Miyagishima said so that would leave 124 weapons for sale.

2

3 Robert Garza said regarding the excluded groups, instead of destroying these weapons would you
4 allow us to dispose of these weapons through other police departments or agencies who might need
5 or want these weapons?

6

7 Councillor Small said I would agree that all firearms that are currently with the Las Cruces Police
8 Department can be given to other law enforcement agencies.

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12 Councillor Small Moved to Amend Resolution No. 13-012 to remove groups 5, 6, 7, 8, and 9 which
13 include all select fire guns proposed for sale; and that any of the guns/weapons can be given or sold
14 to other law enforcement agencies and Councillor Sorg Seconded the motion.

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18 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 13-012 to remove
19 groups 5, 6, 7, 8, and 9 which include all select fire guns proposed for sale; and that any of the
20 guns/weapons can be given or sold to other law enforcement agencies and it was Approved. 4-3
21 Councillor Silva, Councillor Small, Councillor Sorg and Mayor Miyagishima voted Aye. Councillor
22 Smith, Councillor Pedroza and Councillor Thomas voted Nay.

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26 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-012 as Amended
27 and it was Approved. 4-3 Councillor Silva, Councillor Small, Councillor Sorg and Mayor
28 Miyagishima voted Aye. Councillor Smith, Councillor Pedroza and Councillor Thomas voted Nay.

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32 *(6) Resolution No. 13-014: A Resolution Amending the City of Las Cruces Disadvantaged
33 Business Enterprise (DBE) Program to Further Clarify Small Business Participation Efforts
34 in Accordance With Federal Regulations.

35

36 Councillor Small Moved to Adopt Resolution No. 13-014 and Councillor Thomas Seconded the
37 motion.

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41 Councillor Silva said I pulled this because I feel it has the opportunity to launch into our Economic
42 Gardening Project so I'd like to know if we have ever expanded or gone beyond the Airport for these
43 DBE projects?

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1

2 Loretta Reyes, Public Works Director said the DBE is for any projects on a Federal level.

3

4 Councillor Silva asked what is the process for a business to become DBE certified?

5

6 Loretta Reyes said that is done by the State so City staff isn't involved with it.

7

8 Councillor Silva said it would be nice if we had a link on our website to show companies how to get

9 DBE certified. On page two of the CAES, number five talks about reduced insurance requirements

10 for small contracts and small businesses; are we waiving the insurance?

11

12 Bob Telles, Purchasing Manager said our Risk Management Department has a policy that if a

13 contract is less than \$10,000 then there is a high possibility that the insurance will be waived but the

14 higher cost contracts are done on a case by case basis.

15

16 Councillor Thomas said regarding economic gardening, we have had a conversation with the

17 Association of Commerce and they are going to fund five to seven economic gardening projects so

18 that process is coming along and we will hopefully have something to report back in the next few

19 months.

20

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23 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-014 and it was

24 Unanimously Approved. 7-0

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28 *(7) Resolution No. 13-015: A Resolution Approving a Land Lease of the City-Owned Parcel

29 46 at the Las Cruces International Airport to Lynco Electric Company, Inc., for a Term of

30 Thirty Years at an Initial Rent of \$11,050.30 Per Year.

31

32 Councillor Small Moved to Adopt Resolution No. 13-015 and Councillor Sorg Seconded the motion.

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36 Councillor Silva said I am concerned with this being a thirty year lease.

37

38 Cheryl Rodriguez, Airport Manager said all leases at the airport are for a minimum of thirty years.

39

40 Councillor Silva asked why thirty years?

41

42 Lisa Murphy, Public Works Director said it is a large investment on land that they will never own

43 so it has to be cost effective for them and it is a standard procedure for airports.

1
2 Councillor Silva asked how much would it cost to invest for two hangers by the private sector?

3
4 Nathan Wilcox, Lynco Electric Company said it will be a minimum of \$400,000 for the first hanger
5 and if we build the second one then it would be double that amount.

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9 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-015 and it was
10 Unanimously Approved. 7-0

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14 *(12) Council Bill No. 13-004; Ordinance No. 2659: An Ordinance Approving a Zone Change
15 From R-4 (Multi-Dwelling High Density & Limited Retail and Office) to C-2 (Commercial
16 Medium Intensity) on 0.20 ± Acres of Land Located on the Southwest Corner of Oasis
17 Avenue and Solano Drive; 1769 N. Solano Drive. Submitted by William J. Crawley,
18 Property Owner (Z2852).

19
20 Councillor Sorg Moved to Adopt Council Bill No. 13-004; Ordinance No. 2659 and Councillor
21 Thomas Seconded the motion.

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24
25 Councillor Silva said it was brought to my attention by the neighbors in that area that they were
26 never notified and there was never any signage on the site so I'd like to know if that was ever done?

27
28 Robert Kyle, Building and Development Services Administrator said there was a sign on the site
29 when it went to the Planning and Zoning and we don't typically re-post signs when it comes to
30 Council. The notice boundary for the proposed case was exceeded due to the number of rights-of-
31 ways so we went about 300 to 400 feet for the notifications. The applicant did have to leave so we
32 are requesting that this be postponed until the September 4th meeting.

33
34 Councillor Silva said I wanted to know about their plans but if this is passed then they would have
35 90 days to begin so maybe it would be better to just table it.

36
37 Adam Ochoa, Planner said the applicant didn't have any plans because he plans on selling it.

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41 Councillor Silva Moved to Table Council Bill No. 13-004; Ordinance No. 2659 until September 4,
42 2012 and Councillor Smith Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Table Council Bill No. 13-004; Ordinance No. 2659 until September 4, 2012 and it was Unanimously Approved. 7-0

(13) Resolution No. 13-019: A Resolution Authorizing the City of Las Cruces to Designate a Voting Delegate and an Alternate to Attend the Annual Business Meeting of the 55th Annual Conference of the New Mexico Municipal League on Thursday, August 30, 2012.

Councillor Silva Moved to Adopt Resolution No. 13-019 and Councillor Thomas Seconded the motion.

Councillor Silva said I would be willing to be the Voting Delegate.

Councillor Thomas said I won't be able to go but it is in Las Cruces so I hope there will be a high attendance and a lot of participation.

Councillor Smith said I could be the Alternate.

Councillor Pedroza Moved to Amend Resolution No. 13-019 to appoint Councillor Silva as the Voting Delegate and Councillor Smith as the Alternate and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 13-019 to appoint Councillor Silva as the Voting Delegate and Councillor Smith as the Alternate and it was Unanimously Approved. 7-0

Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-019 as Amended and it was Unanimously Approved. 7-0

1 (14) Resolution No. 13-020: A Resolution to Allow a Temporary Exception to the Transit Fare
2 Tariff That Will Permit Current New Mexico State University (NMSU) and Doña Ana
3 Community College (DACC) Students to Ride Any Roadrunner Transit Bus Fare Free
4 Throughout the 2012-2013 Regular School Year.
5

6 Councillor Sorg Moved to Adopt Resolution No. 13-020 and Councillor Smith Seconded the motion.
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10 Mike Bartholomew, Transit Administrator gave an overhead presentation and said the purpose of
11 this request is to create a demonstration project that will gather data on the number of students that
12 might actually benefit from a universal access program and the information gathered will be used
13 to negotiate a permanent funded unlimited access agreement. This program would reduce the
14 demand for parking at the university, increase student access to housing and employment options,
15 help universities recruit and retain students, reduces the overall cost of attending school, increases
16 transportation equity for students and provides a safe transportation option for students. It would also
17 increase transit ridership, reduces unused capacity in buses, reduces the operation cost per ride,
18 provides a guaranteed revenue source, improves overall transit services and slows the growth the
19 public subsidies required for transit. There typically is a special fee charged to all students each
20 semester specifically for this program and the fees can range from \$5 and up per semester. The
21 amount of the fee directly relates to the level of services being provided and the program tends to
22 start small and then grows as more services are requested. A rough estimate of revenue loss is
23 between \$3,500 and \$10,500 per year but if this project is successful, it would result in a new and
24 significant source of transit revenue in the future. This would not waive the cost of providing the
25 special Aggie Transit service and the DACC shuttle service.
26

27 Councillor Pedroza said this seems to be a very good idea and I think that it would help the City go
28 Greener. When I was in Washington they had a program for free fares for things like conventions
29 so we might want to also look at trying that type of program as well.
30

31 Councillor Thomas said I think this is a great idea and I have seen it work very well in other
32 university towns. Have you ever looked at having this type of program for Veterans?
33

34 Mike Bartholomew said I'm not familiar with these types of programs for Veterans but the concept
35 could work with any large group.
36

37 Councillor Small said it is very exciting to see this program moving forward.
38

39 Councillor Silva said do we currently charge students?
40

41 Mike Bartholomew said yes.
42

43 Councillor Silva said there is going to be about \$3,500 in loss revenue; correct?

1
2 Mike Bartholomew said between \$3,500 and \$10,500; it is hard to estimate how many students will
3 be riding the bus.

4
5 Councillor Silva said we are considering raising the rates for senior citizens so how is this justified?

6
7 Mike Bartholomew said those are two different programs. This program is just a test to see how well
8 it would work, it would then result in a contract with a fee base to it and we would probably get more
9 funding for it rather than with just a fare program.

10
11 Brianna Sylvas, NMSU student said I came from California and I had to use the Roadrunner system
12 which has been really valuable to me so I think this would be a great benefit for the students.

13
14 Michael Franco, NMSU student said I think this is a great idea and it will benefit all the students as
15 well as our economy.

16
17 Ophelia Watkins, NMSU Director for Transit and Parking Services said this is a very exciting
18 proposal for NMSU and it will cut down on the number of vehicles around the city.

Draft

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22 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-020 and it was
23 Unanimously Approved. 7-0

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27 Councillor Thomas Moved for a five minute recess and Councillor Small Seconded the motion.

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31 Mayor Miyagishima said all those in favor of a five minute recess state Aye.

32
33 Council stated Aye.

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35 -----
36
37 Meeting recessed at approximately 4:30 p.m.

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39 Meeting reconvened at approximately 4:40 p.m.

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42

1 (15) Council Bill No. 13-003; Ordinance No. 2658: An Ordinance Amending Section 24-1 and
 2 Section 24-100 of the Las Cruces Municipal Code to Comply With Changes to State of New
 3 Mexico Statutes §13-1-21, §13-1-22, and §13-4-2 as Amended by the 2012 New Mexico
 4 Legislature Through House Bill 97.

5

6 Councillor Small Moved to Adopt Council Bill No. 13-003; Ordinance No. 2658 and Councillor
 7 Pedroza Seconded the motion.

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10

11 Bob Telles, Purchasing Manager gave an overhead presentation and said this addresses the changes
 12 to the State Statute regarding the Procurement Code. In 2010 we had a percentage preference for
 13 local and non-local bidders but the State only had preference for non-resident businesses. Then in
 14 2011 House Bill 1 passed which changed the application of preference by expanding it to apply to
 15 New Mexico firms as well as all bids and proposals. Then in 2012 House Bill 97 passed which gave
 16 a tiered preference to Veteran businesses or contractors but it included a condition that these
 17 preferences for Veterans could not be cumulative with the 5% in-state preference. The problem is
 18 our current Procurement Code still has a 5% maximum accumulation so we need to increase it to up
 19 to 10% for preferences. So the updates would be to Section 24-1: Definitions, NM State
 20 Procurement Code Definitions "Local Business": Possess CLC Business Certification; and Section
 21 24-100 Cumulative Maximum - 10% U.S. OMB "Common Rule" Applications HUD Section 3
 22 Preference NM Materials Preference .

23

24 Councillor Thomas said so with the preference percentages, some of them are positive and some are
 25 negative; correct?

26

27 Bob Telles said correct; for example if a firm is not local then it gets a negative 5% preference and
 28 if it is local then it gets a positive 5% preference but if a local firm doesn't have a City Business
 29 Certificate then it wouldn't qualify for the positive 5% preference.

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33 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 13-003; Ordinance
 34 No. 2658 and it was Unanimously Approved. 7-0

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38 (16) Council Bill No. 13-005; Ordinance No. 2660: An Ordinance Approving a Zone Change
 39 From O-2C (Office, Professional-Limited Retail Service-Conditional) to C-3C (Commercial
 40 High Intensity-Conditional) on 1.56 ± Acres of Land Located on the Southeast Corner of
 41 Lohman Avenue and Indian Hollow Road; 3830 E. Lohman Avenue. Submitted by Tom
 42 Whatley on Behalf of Samra, LLC, Property Owner (Z2853).

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2 Councillor Sorg Moved to Adopt Council Bill No. 13-005; Ordinance No. 2660 and Councillor
3 Thomas Seconded the motion.

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7 Katherine Harrison-Rogers, Senior Planner gave an overhead presentation and said this property is
8 approximately 1.5 acres and it is currently vacant and undeveloped. There are some medical offices,
9 a bank, a gas station and some residential areas near this property. The applicant is proposing the
10 zone change in order to facilitate a speciality retail store. The Planning and Zoning Commission and
11 staff are recommending three conditions be maintained for this zone change which includes the
12 height is increased to 30 feet for the proposed HVAC system on top of the roof. There were some
13 concerns with the traffic, noise and the compatibility with the neighborhood.

14
15 Councillor Smith said we've heard from a lot of the residents in this area and they presented their
16 case very well but we are moving towards form based codes and smart growth and the Vision 2040
17 Plan. There isn't much retail in this area so basically this would be a single destination retail facility
18 for this area. Can we fit this into the direction of smart growth?

19
20 Katherine Harrison-Rogers said Vision 2040 is a springboard for our updated Comprehensive Plan
21 and the interest of the community as a whole is based on those plans.

22
23 Councillor Smith said I do think for the sake of the neighbors that we should leave the zoning as is.

24
25 Councillor Thomas said according to our Transit Plan this is suppose to be an express corridor so
26 it seems to me that we should be looking at what we need to do for those express areas. I see us just
27 looking at one property and not having any sort of comprehensive look at the corridor. We have a
28 unique problem here because we have high density housing right next to this retail area but the other
29 retail areas aren't zoned C-3C. There was still issues with the notification to the residents in this
30 area so I think we all need to agree that something needs to be done to address that issue.

31
32 Councillor Pedroza said when I was reading the packet I saw that there were complaints about the
33 neighbors not getting any notice and I agree that is something that needs to be addressed.

34
35 Councillor Sorg said I think there ought to be a procedure where neighborhoods have meetings with
36 new developments.

37
38 Tom Whatley, Property Owner Representative said we started this project about two years ago and
39 we have been asked to bring something like Trader Joe's into town but our town doesn't fit their
40 model. We spent a lot of time with this tenant and this is the location they liked so it surprised me
41 that this wasn't zoned C-3C because there is another property that is next to the neighborhood that
42 is zoned C-3C. I think this is something that the neighborhood will like because it will have the

1 walk-ability so they will be able to walk to a grocery store.

2

3 David Groomes, Architect gave an overhead presentation and said some of the uses that are allowed
4 under the current zoning are childcare facilities, convention centers, banks, funeral homes,
5 medical/dental offices and schools. The C-3C zoning allows for things like department stores,
6 groceries stores and variety stores. The tenant for this site is a small neighborhood grocery store and
7 it has been highly successful in other areas where it has gone. We will improve our share of Indian
8 Hollow by developing it to City standards which will include adding sidewalks, curbs, and gutters.
9 We will also work with the City to provide traffic calming in the neighborhood adjacent to our site.
10 Our share of the road will then be dedicated to the City and it will substantially improve traffic
11 safety. All exterior lighting on the project will be designed to Dark Skies Standards to prevent light
12 spillage into the neighborhood. We will fully develop the 30 foot landscape buffer between our
13 property and the neighborhood to provide a visual barrier between the two and we are willing to
14 provide additional screening devices if they are needed. We believe this zone change is consistent
15 with the Comprehensive Plan and the 2001 Zoning Code. I also want to mention that we have
16 received recommendation of approval from basically every agency that we have contacted.

17

18 Councillor Smith said this is the first time I've heard that this is going to be a speciality grocery store
19 which I think would have a certain benefit to the nearby residents. Can you describe the relationship
20 between this retailer and the neighborhood?

21

22 David Groomes said they view themselves as a neighborhood market and they sell high quality
23 natural products. They are dedicated to customer service and their store locations stay around for
24 quite some time and they also have very loyal customers.

25

26 Armena Taylor, Member of the Public said we live next door to the proposed zone change and there
27 are twelve condominiums of which we own one of them. We have not been notified of any of the
28 zone changes for this property and we overlook that property through our bedroom windows. Our
29 quality of life is really going to be affected by this and it would be a gross mistake if this was
30 approved.

31

32 Herb Taylor, Member of the Public submitted a petition and said our biggest concern is that Indian
33 Hollow is a race track and we don't need any more traffic. We don't want the zoning changed and
34 you should honor what the people want in this area.

35

36 Robert Woods, Member of the Public submitted a petition and read a letter to Council and said we
37 request that you deny this application.

38

39 Russ Warner, Member of the Public said you need to pay attention to the residents in this area and
40 I hope you will not accept this zone change.

41

42 Hedi Smith, Member of the Public said when we bought our property most of that area was

1 undeveloped and I expected the zoning to stay the same as it was listed at that time. There is a lot
2 of senior citizens in the Foothills area and if this zoning is changed it will increase the traffic for this
3 area and it won't be safe for us to get around on our scooters.

4

5 Councillor Thomas asked would it be helpful for you to get around if we had sidewalks and made
6 the area more pedestrian friendly?

7

8 Hedi Smith said this is going to be a grocery store that only sells organic food and we need to be able
9 to buy other things besides just organic food.

10

11 Councillor Thomas said my goal is to make that entire area pedestrian friendly.

12

13 Hedi Smith said that would help but it still wouldn't change the traffic flow if the zoning was
14 changed to C-3C.

15

16 Councillor Thomas said if it's more pedestrian friendly then people will start walking instead of
17 driving their cars. If we don't start planning now then it will never happen.

18

19 Martha Beerman, Member of the Public said I live in this area and I am part of the neighborhood
20 association. We ask that you carefully consider the opposition of this zone change.

21

22 Rosa Lopez, Member of the Public gave an overhead presentation.

23

24 Patricia MacGregor-Mendoza, Member of the Public gave an overhead presentation.

25

26 Mayor Miyagishima said maybe there could be a condition put on the applicant as a compromise.
27 We could have separate zoning for the buffer, put a cap on the types of businesses allowed for that
28 zoning designation, no 24 hour service, and have them put the HVAC on the ground instead of the
29 roof. Of course the applicant would have to agree to the conditions.

30

31 Councillor Smith said I believe we do need to be able to be trusted regarding our commitments and
32 with growth comes change. I don't think it would benefit us to be perceived as doing this on a whim
33 and I personally believe that if it is the right kind of grocery store then it could be an asset to that
34 neighborhood but if the residents say they bought there because they had expectations and now we
35 are changing it, then that is somewhere where I don't want to be and neither does the property
36 owners.

37

38 Councillor Pedroza said once we change the zoning then there isn't any guarantees so is there any
39 way we can tie down what the tenant will do?

40

41 Robert Kyle said Council can put conditions on it with a time limit and if those conditions are not
42 met then it could revert back to the original zoning.

1 Councillor Small said I think it would be appropriate to put conditions on the types of uses and I
2 think we would need to table this for a certain amount of time to work through some of the issues.
3

4 Councillor Thomas said I agree with Councillor Small and I just want to say that it is possible to
5 change a street like Lohman into a boulevard.
6

7 Councillor Smith said I would be in favor of tabling this to give the parties time to discuss it.
8

9

10

11 Councillor Sorg Moved to Table Council Bill No. 13-005; Ordinance No. 2660 to September 4, 2012
12 with the condition that the parties meet between now and then and Councillor Pedroza Seconded the
13 motion.
14

15

16

17 Mayor Miyagishima called for the roll on the Motion to Table Council Bill No. 13-005; Ordinance
18 No. 2660 to September 4, 2012 with the condition that the parties meet between now and then and
19 it Failed. 1-6 Councillor Pedroza voted Aye. Councillor Silva, Councillor Smith, Councillor Small,
20 Councillor Sorg, Councillor Thomas and Mayor Miyagishima voted Nay.
21

22

23

24 Tom Whatley said the developer has not purchased the land yet because it is pending on this zone
25 approval. I also want to mention that O2 is commercial zoning with a different designation. The
26 Mayor talked about us going from 30 feet to 25 feet and the challenge with that would be in trying
27 to get the HVAC on the ground which could be a problem since it is on a thoroughfare but we could
28 probably do about 27 feet. I also have concerns with how the financing would work with a property
29 that has dual zoning. We could do the landscaping buffer and have the parking lot easement as a
30 permanent easement so no one could ever build there. We would be okay with having a condition
31 added that if we don't put in our proposed tenant and start building within one year then the zoning
32 would revert back to O2.
33

34

35 Mayor Miyagishima asked would you be able to meet with the neighbors and then come back before
36 us and make another presentation?
37

38

39 Tom Whatley said yes, but it would be better to table it until the second meeting in September which
40 is September 17th. Is there anything specific that the Council would like us to present?
41

42

43 Mayor Miyagishima said the main thing is the buffer and the easement.
44

45

46 Councillor Thomas said also some traffic calming ideas and some other ideas of what we can do to
47

1 keep the traffic from going through the neighborhood.

2

3 Councillor Small said I also think that City staff should be a part of at least some of those meetings.

4

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6

7 Councillor Smith Moved to Table Council Bill No. 13-005; Ordinance No. 2660 to September 17,
8 2012 and Councillor Pedroza Seconded the motion.

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12 Mayor Miyagishima called for the roll on the Motion to Table Council Bill No. 13-005; Ordinance
13 No. 2660 to September 17, 2012 and it was Unanimously Approved. 7-0

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17 (17) Council Bill No. 13-006; Ordinance No. 2661: An Ordinance Approving a Concept Plan
18 Amendment for a Planned Unit Development (PUD) Known as Villa Amador. The Subject
19 Properties Encompass 53.382 ± Acres and Are Located South of Amador Avenue, West of
20 Valley Drive and North of Burn Lake; Parcel ID#S 02-02145, 02-02579, 02-02580, 02-
21 02603, 02-02605, 02-02607, 02-02609, 02-18091, 02-22499. Submitted by Borderland
22 Engineers and Surveyors on Behalf of IFLC, LLC, Property Owner (PUD-12-01).

23

24 Councillor Thomas Moved to Adopt Council Bill No. 13-006; Ordinance No. 2661 and Councillor
25 Small Seconded the motion.

26

27

28

29 Robert Kyle, Building and Development Services Administrator gave an overhead presentation and
30 said this is a request for an amendment to the Villa Amador development. The Villa Amador PUD
31 was initially approved with conditions in November 2010 and those conditions were that the
32 applicant shall place a 10 foot wide landscape buffer around the perimeter of the development
33 outside of any proposed platted lot for easier access and maintenance by the Homeowner's
34 Association, that all proposed privately maintained streets within the development shall be built to
35 City standards and that the applicant shall cooperate with EBID on restricting vehicle access along
36 the Porter Lateral to Brown Road. The proposed amendments are that the applicant be allowed to
37 convert the landscape buffer tract in to a landscape buffer easement and that they dedicate all interior
38 residential streets, drainage systems and Tract 1A within Planning Parcel 3 to the City. The land
39 uses, conceptual layout and intent remain unaffected.

40

41 Ted Scanlon, Applicant Representative gave an overhead presentation and said we got tangled up
42 with the landscape buffer and the way it was approved because it wasn't really going to do its job

1 correctly and it was going to be extremely hard to maintain it. The intent of the buffer is to screen
2 the industrial use from the residential area. This would put the landscaping into the resident's yards
3 and they will be able to maintain it as part of their yard. We would make it so that they will have to
4 keep it maintained and viable. We also figured that since we would have to build the streets to City
5 standards that we would go ahead and give them to the City.

6

7 Councillor Small said one of the key things would be that you ensure the landscaping is kept up and
8 one of my concerns is that it would be a civil matter so it won't be enforceable by Codes.

9

10 Robert Kyle said it would be the same type of situation whether it was maintained by the homeowner
11 or by the Homeowner's Association.

12

13 Councillor Smith said there are two roads going in and out of this development; correct?

14

15 Ted Scanlon said correct.

16

17 Councillor Smith asked what kind of burden will it be for the City to take care of these streets?

18

19 Robert Kyle said I don't have the dollar amount on that cost but it would basically be like any other
20 subdivision. Staff did see these plans and did recommend approval so those maintenance costs are
21 considered a normal part of growth for the City.

22

23 Councillor Sorg asked will there be storm drains for the streets?

24

25 Ted Scanlon said yes.

26

27 Councillor Sorg asked will you be using rain harvesting for your landscape?

28

29 Ted Scanlon said we are in the process of finalizing an agreement with the City to help them with
30 the cost of building and expanding their drainage facilities for this area. We haven't considered rain
31 harvesting but it could be an option.

32

33 Scott Hill, Member of the Public said I own property near this area and I'm not sure how the
34 landscaping buffer will look and where the wall will be located.

35

36 Ted Scanlon said there is no requirement to have a buffer between that residential property and our
37 residential property so there will likely just be a rock wall along that line.

38

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41 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 13-006; Ordinance
42 No. 2660 and it was Unanimously Approved. 7-0

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VIII. BOARD APPOINTMENTS

Mayor Miyagishima appointed Rob Peterson to the Labor Management Relations Board.

Councillor Thomas Moved to Approve the Mayor's board appointment of Rob Peterson to the Labor Management Relations Board and Councillor Small Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appointment of Rob Peterson to the Labor Management Relations Board and it was Unanimously Approved. 7-0

Draft

Mayor Miyagishima appointed Felix Cordero as the Mesilla Valley Public Housing Authority representative to the Downtown Revitalization Plan Ad Hoc Committee.

Councillor Thomas Moved to Approve the Mayor's board appointment of Felix Cordero as the Mesilla Valley Public Housing Authority representative to the Downtown Revitalization Plan Ad Hoc Committee and Councillor Sorg Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appointment of Felix Cordero as the Mesilla Valley Public Housing Authority representative to the Downtown Revitalization Plan Ad Hoc Committee and it was Unanimously Approved. 7-0

Councillor Small left the meeting at approximately 7:30 p.m.

Mayor Miyagishima reappointed Lester Palmer (Member-at-Large), Jack Petrowsky (USMC League), and James W. Harbison (Military Officers Association of America) to the Veterans Advisory Board.

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Councillor Thomas Moved to Approve the Mayor’s board reappointment of Lester Palmer (Member-at-Large), Jack Petrowsky (USMC League), and James W. Harbison (Military Officers Association of America) to the Veterans Advisory Board and Councillor Smith Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve the Mayor’s board reappointment of Lester Palmer (Member-at-Large), Jack Petrowsky (USMC League), and James W. Harbison (Military Officers Association of America) to the Veterans Advisory Board and it was Approved. 6-0 Councillor Small was absent.

IX. REVIEW OF PROPOSED ORDINANCE(S)

Council Bill No. 13-007; Ordinance No. 2662: An Ordinance Repealing Chapter 39 Outdoor Lighting of the Las Cruces Municipal Code, as Amended, and Replacing it With a Revised Chapter 39 Outdoor Lighting of the Las Cruces Municipal Code, as Amended.

Mayor Miyagishima and Council agreed to bring this item back.

Council Bill No. 13-008; Ordinance No. 2663: An Ordinance Repealing Article VI, Traffic Standards, of Chapter 32 of the Las Cruces Municipal Code, as Amended and Replacing it With a Revised Article VI, Traffic Standards for Chapter 32 of the Las Cruces Municipal Code, as Amended.

Mayor Miyagishima and Council agreed to bring this item back.

Council Bill No. 13-009; Ordinance No. 2664: An Ordinance Approving a Zone Change From M-1/M-2 (Industrial Standard) to C-3/M-1/M-2 (Commercial High Intensity/Industrial Standard) on 12.59 ± Acres of Land Located on the Northwest Corner of Motel Boulevard and Interstate 10; 2701 W. Amador Avenue. Submitted by Chad Sells on Behalf of Raci Management Company, Inc., Property Owner (Z2854).

Mayor Miyagishima and Council agreed to bring this item back.

X. GENERAL DISCUSSION

1 1. Mayor

2

3 Mayor Miyagishima said I just want to mention that this Sunday is the Mission of Mercy Cookout
4 at Young Park from 5:00 to 7:00 p.m.

5

6

7

8 2. City Council

9

10 Councillor Thomas passed out some information to Council and asked have we done anything with
11 the outfall channel bicycle obstacles?

12

13 Robert Garza, City Manager said that project is still under construction so we haven't had any
14 changes in the design. We did agree that once the project has been closed out and the contractor has
15 been paid then we would consider removing them.

16

17 Councillor Thomas said there is a lot of misinformation out there regarding the solid waste transfer
18 station and our website doesn't have very clear information either so I think it would be helpful for
19 us to have more information available.

20

21 The information I passed out has a list of all the express corridors that we've talked about and it
22 shows how they are rated which the highest rated is Solano. I think we need to look at this and the
23 Affordable Housing Plan. I have also included a summary of the Vision 2040 Plan and I would
24 suggest that we move forward with our Comprehensive Plan because it is old and not in line with
25 the transit plans.

26

27 Brian Denmark, Assistant City Manager said staff has already started working on the Comprehensive
28 Plan and once we get a clean copy then I will forward it to Council.

29

30

31

32 Councillor Sorg said regarding our gun sale, I still wouldn't mind if all the guns were destroyed but
33 it is an issue with the Second Amendment Right.

34

35 I wrote an article about infrastructure for the Community Connection and Councillor Thomas and
36 I are having a neighborhood meeting to discuss how to improve their infrastructure on August 14th
37 at 6:30 p.m.

38

39 In our meetings with the JCP we talked about the problems teenagers have in the city and I would
40 suggest that we have a special work session to discuss some of these issues.

41

42 I have received several emails from several residents suggesting that the City enter into a challenge

1 with the World Wildlife Fund for the Earth our City Wildlife Challenge.

2

3 Regarding our professional baseball team, I attended the game last Friday night and spoke with the
4 owner who said he was disappointed with the amount of support that has been given by the City so
5 I am challenging Council to go out and throw pitches at next season's games.

6

7 Mayor Miyagishima said I injured my rotator cup so that is why I don't throw footballs or baseballs.

8

9

10

11 Councillor Pedroza said I received another email from one of the neighbors in my district stating
12 how much they appreciate the Music in the Park events.

13

14 The Juvenile Citation Program students were here a few meetings ago and they were impressed with
15 the discussion we had regarding the Wilderness issue. I think it would be a good experience to have
16 a work session to talk with them and maybe reach out to their parents as well.

17

18

19

20 Councillor Smith said sometimes our Police have to deal with teenagers so perhaps our Parks and
21 Recreation could have the opportunity to help steer these teenagers into a different direction.

22

23 I want to mention that I swam in the Senior Olympics and won two gold medals and two silver
24 medals. There were a lot of people from different places and they all complimented Las Cruces.

25

26

27

28 Councillor Silva said regarding the bike paths, I notice there were some road block signs which I
29 know is part of the process but I would suggest that they put them up in an angle so there will be
30 plenty of room for bikes to pass.

31

32 I just found out that the second August meeting has been cancelled and I would like to know why?

33

34 Mayor Miyagishima said it was cancelled because the Mayor Pro-tem and myself will be absent and
35 the items that were going up on that agenda are able to be put off until the next meeting.

36

37 Councillor Silva said it would be nice to have a quick link on our web page to the DBE program and
38 give information on how people can sign up for it.

39

40 I think we should have a work session to discuss the zoning process and to make sure meetings
41 between the applicant and the neighbors are happening.

42

1 The reason I pulled the item regarding the Mesquite property is because there are issues with our
2 notification process. It doesn't make sense to me that there are signs put up two weeks in advance
3 of the P&Z meeting but no signage is put up when it comes before Council.

4

5

6

7

3. City Manager

8

9 Robert Garza, City Manager said I want to mention that there will not be a regular meeting on
10 August 20, 2012.

11

12 We will need to have another work session regarding the campaign finance because the
13 committee has concluded their work and are ready to present to Council so it will probably be
14 added to a work session in September.

15

16

17

18 Meeting Adjourned at 8:09 p.m.

Draft