



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

**Regular Meeting**

**September 4, 2012  
1:00 P.M.**

**Council Chambers, City Hall**

**MEMBERS PRESENT:**

**STAFF:**

Mayor Ken Miyagishima

Robert Garza, City Manager

Councillor Miguel Silva, District 1 **arrived at 2:07**

Harry (Pete) Connelly, City Attorney

Councillor Greg Smith, District 2

Esther Martinez-Carrillo, City Clerk

Councillor Olga Pedroza, District 3

Councillor Nathan Small, District 4

Councillor Gill Sorg, District 5 **Via telephone**

Councillor Sharon Thomas, District 6

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**I. OPENING CEREMONIES**

Mayor Miyagishima called the meeting to order and asked for a moment of silence. Councillor Smith 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 Smith presented a Proclamation to Patrick Kahill and declared September 2012 as Parkinson's Awareness Month.

Councillor Smith presented a Proclamation to Flo Hosa Dougherty and declared September 4, 2012 as Flo Hosa Dougherty Day.

Councillor Smith presented a Proclamation to Curtis Rosemond and declared September 4, 2012 as Curtis Rosemond Day.

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1 Councillor Thomas Moved to allow Councillor Sorg to attend the meeting via telephone and  
2 Councillor Small Seconded the motion.

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6 Mayor Miyagishima called for the roll to allow Councillor Sorg to attend the meeting via telephone  
7 and it was Approved. 5-0 Councillor Silva and Councillor Sorg were Absent

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11 David Dollahon, Chief Planning Administrator said this is more of a procedural matter more so than  
12 anything that requires your action. It's just more for information and a public disclosure requirement  
13 in order to comply with the CDBG regulations. Mesilla Valley Casa or court appointed special  
14 advocate is a recipient of CDBG public service funds for this current fiscal year in the amount of  
15 \$20,000. Mr. Luther Fisher is a long time board member of the Mesilla Valley Casa but he has also  
16 been recently appointed as the liaison between Wells Fargo Bank (his employer) and the City of Las  
17 Cruces for all the City of Las Cruces accounts that are held at Wells Fargo. Because of his  
18 membership in the Board of Directors and the management of the bank accounts; well, actually he's  
19 not the manager, he's really the liaison, the City manages all efforts related to those accounts. The  
20 Federal Regulations requires us to make a disclosure related to a potential conflict of interest.  
21 Related to HUD's requirements a disclosure must be made which Mr. Fisher did under normal  
22 course of actions then a legal opinion must be sought by City staff which has been provided by the  
23 City Attorney that the exception is sought by the Federal Regulations does not violate state or local  
24 law which it doesn't and we must make a public disclosure which is today's action that is before you  
25 then a written request must be submitted by City staff to the local field office in Albuquerque for a  
26 determination of the conflict of interest and then ultimately HUD makes a determination which  
27 allows for the conflict of interest. That's essentially our part of the presentation today. Mr. Fisher  
28 is very dedicated to the community and this is a matter of protocol, there is no action required of you  
29 the Council, it's just a matter of public disclosure.

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33 **II. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC**

34 **SECTION 2-27(E)(2).** *At the opening of each council meeting, the chairperson shall ask*  
35 *if any member of the city council, city manager, or any member of the city staff has any*  
36 *known conflict of interest with any item on the agenda.*

37

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

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40 None given.

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3 **III. PUBLIC PARTICIPATION**

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5 None given.

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

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13 Mayor Miyagishima said Item 17 needs to be removed from the Consent Agenda for discussion.

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17 Councillor Smith Moved to Approve the Agenda as Amended and Councillor Thomas Seconded the  
18 motion.



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22 Mayor Miyagishima called for the roll on the Motion to Approve the Agenda as Amended and it  
23 was Approved. 5-0 Councillor Silva and Councillor Sorg were Absent

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27 **V. CITY COUNCIL MINUTES**

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29 \*(1) Regular Meeting of July 16, 2012

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

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35 \*(2) Resolution No. 13-021: A Resolution Authorizing the Whole Enchilada Fiesta, Inc. To  
36 Continue With the Permitting Process to Allow for the Sale and Consumption of Alcoholic  
37 Beverages Within the Fiesta Garden, a Restricted and Secured Area, at the 32<sup>nd</sup> Annual *The*  
38 *Whole Enchilada Fiesta* to be Held September 28, 29, and 30, 2012 at the Hadley Street  
39 Complex, 1501 East Hadley Avenue, Las Cruces, New Mexico.

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- 1 \*(3) Resolution No. 13-022: A Resolution Approving the Expansion of the Licensed Premises  
2 for Liquor License Numbers 68007 and 6168 Issued to Central Tavern, LLC D/B/A Mimbres  
3 Valley Brewing Company Located at 915 University Avenue, Building 985, Suite 1B, and  
4 Ratifying the Approval of the New Mexico Regulation and Licensing Department, Alcohol  
5 and Gaming Division.  
6
- 7 \*(4) Resolution No. 13-023: A Resolution Approving the Issuance of a Waiver of the  
8 Church/School Distance Restriction to the Las Cruces Symphony Association for the Public  
9 Celebration Permit Applications for a Fundraising Event at the Branigan Cultural Center, 501  
10 North Main Street, to be Held on Saturday, September 8, 2012 From 5:30 P.M. to 10:30 P.M.  
11
- 12 \*(5) Resolution No. 13-024: A Resolution Authorizing the Las Cruces Symphony Association  
13 to Continue With the Permitting Process Which Final Approval Would Allow for the Sale  
14 and Consumption of Alcoholic Beverages Within a Restricted and Secured Area at a  
15 Fundraising Event at the Branigan Cultural Center, 501 North Main Street, to be Held on  
16 Saturday, September 8, 2012 From 5:30 P.M. to 10:30 P.M.  
17
- 18 \*(6) Resolution No. 13-025: A Resolution Approving an Agreement Authorizing the Watson  
19 Lane Mobile Home Park to Connect to the City Wastewater System.  
20
- 21 \*(7) Resolution No. 13-026: A Resolution Authorizing the City of Las Cruces, on Behalf of Its  
22 Police Department and Acting as Fiscal Agent for Doña Ana County (Sheriff's Office), to  
23 Accept a Grant Award in the Amount of \$69,316.00 From the Department of Justice, Bureau  
24 of Justice Assistance, FY 12 Edward Byrne Memorial Justice Assistance Grants (JAG)  
25 Program Local Solicitation and to Ratify the City Manager's Signature on the Grant  
26 Agreement.  
27
- 28 \*(8) Resolution No. 13-027: A Resolution Authorizing the City of Las Cruces, on Behalf of Its  
29 Police Department, to Accept a Grant Award in the Amount of \$34,000.00 From the State  
30 of New Mexico, New Mexico Department of Tourism, FY 2013 New Mexico Clean and  
31 Beautiful Grant Program, Ratify the City Manager's Signature on the Grant Agreement, and  
32 to Adjust the FY 2013 Budget.  
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- 34 \*(9) Resolution No. 13-028: A Resolution Authorizing the City of Las Cruces, on Behalf of Its  
35 Police Department to Accept a Sub-Grant Award in the Amount of \$40,000.00 From the  
36 Doña Ana County Sheriff's Office Under the New Mexico Department of Homeland  
37 Security and Emergency Management, 2011 State Homeland Security Grant - Operation  
38 Stonegarden Grant Program, to Ratify the City Manager's Signature on the Memorandum  
39 of Agreement Between the City of Las Cruces and the Doña Ana County Sheriff's Office,  
40 and to Adjust the FY 2013 Budget.  
41

- 1 \*(10) Resolution No. 13-029: A Resolution Approving an Additional Exception to the City's  
2 Home Rehabilitation Handbook for Financing the Rehabilitation Project Located at 1944 La  
3 Jolla Avenue.  
4
- 5 \*(11) Resolution No. 13-030: A Resolution Approving a Waiver to 100% of the Required Road  
6 Improvements to Wilt Avenue Associated with a Proposed Subdivision Known as Sierra  
7 Tracts on a 2.384 ± Acre Tract Located on the Southeast Corner of Jefferson Lane and Wilt  
8 Avenue. Submitted by Sierra Glymph and Charles H. Glymph, Property Owners. (S-11-  
9 028W)  
10
- 11 \*(12) Resolution No. 13-031: A Resolution Approving a Subdivision Known as Sierra Tracts on  
12 a 2.384 ± Acre Tract Located on the Southeast Corner of Jefferson Lane and Wilt Avenue.  
13 Submitted by Sierra Glymph and Charles H. Glymph, Property Owners. (S-11-028)  
14
- 15 \*(13) Resolution No. 13-032: A Resolution Approving an Agreement to Operate the City BMX  
16 Track Between Wild Chile BMX, Inc., a Non-Profit Organization and the City of Las Cruces  
17 Parks and Recreation Department.  
18
- 19 \*(14) Resolution No. 13-033: A Resolution Approving a Real Estate Purchase Agreement  
20 Between the City of Las Cruces and David A. and Susana G. Olguin, for the Sale of an  
21 Excess Portion of Municipal-Owned Property Located at the Southeast Corner of the  
22 Intersection of 17<sup>th</sup> Street and Hadley Avenue; or any Offer Acceptable to the Las Cruces  
23 City Council on Adoption of this Resolution.  
24
- 25 \*(15) Resolution No. 13-034: A Resolution Approving a Vacation of a 20-Foot Wide Alleyway  
26 Located in Block 31 of the Country Club Mesa Addition and Transferring Ownership of the  
27 Remnant Right-of-Way to Trustees of the University Hills Congregation of Jehovah's  
28 Witnesses, Ernesto Medrano, and Margaret Nevarez Telles.  
29
- 30 \*(16) Resolution No. 11-12-493: A Resolution Approving an Indefinite Cost, Indefinite Quantity  
31 Price Agreement With Cannon Cochran Management Services, Inc (CCMSI) of  
32 Albuquerque, NM for a Projected, Annual Cost Not to Exceed \$100,000.00 to Provide  
33 Workers' Compensation Third Party Administration Services for a Term of Up to Five (5)  
34 Years Conditioned Upon Annual Renewals and Approved Budgets.  
35
- 36 \*(18) Council Bill No. 13-009; Ordinance No. 2664: An Ordinance Approving a Zone Change  
37 From M-1/M-2 (Industrial Standard) to C-3/M-1/M-2 (Commercial High Intensity/Industrial  
38 Standard) on 12.59 ± Acres of Land Located on the Northwest Corner of Motel Boulevard  
39 and Interstate 10; 2701 W. Amador Avenue. Submitted by Chad Sells on Behalf of Raci  
40 Management Company, Inc., Property Owner (Z2854).  
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**VII. UNFINISHED BUSINESS:**

(19) Council Bill No. 13-004; Ordinance No. 2659: An Ordinance Approving a Zone Change From R-4 (Multi-Dwelling High Density & Limited Retail and Office) to C-2 (Commercial Medium Intensity) on 0.20 ± Acres of Land Located on the Southwest Corner of Oasis Avenue and Solano Drive; 1769 N. Solano Drive. Submitted by William J. Crawley, Property Owner (Z2852). – *Tabled from August 6, 2012.*

Councillor Small Moved to Remove Council Bill No. 13-004; Ordinance No. 2659 from the Table and Councillor Thomas Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Remove Council Bill No. 13-004; Ordinance No. 2659 from the Table and it was Approved. 6-0 Councillor Silva was Absent

Draft

Adam Ochoa, Planner gave an overhead presentation and said this is for a zone change from R-4 to C-2 and the size of the property is approximately 0.20± acres. It is currently vacant and undeveloped and it is eligible for the City's Infill Development Process. The applicant is proposing the zone change to C-2 to allow a limited variety of medium intensity commercial use. The Planning and Zoning Commission met on May 22, 2012 and recommended approval based on the findings presented in the staff report and testimony presented at the hearing.

Councillor Smith said as long as there was an opportunity given for public input then I see no problem with this zone change.

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Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 13-004; Ordinance No. 2659 and it was Approved. 5-0 Councillor Silva and Councillor Sorg were Absent.

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

\*(17) 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.

1 Councillor Small Moved to Adopt Council Bill No. 13-008; Ordinance No. 2663 and Councillor  
2 Thomas Seconded the motion.

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6 Councillor Thomas said I thought we were going to start looking at the Design Standards as a whole  
7 but this is only for the Traffic Standards. I would like for us to table this and come back with a work  
8 session to discuss the Design Standards as a whole instead of each section separately.

9

10 Lisa Murphy, Transportation Director said this traffic article deals with operational type issues,  
11 traffic lights and street lights and it doesn't take in account the larger issues but they were considered  
12 in the drafting of this document. There has been a staff committee established to look at Chapter 32  
13 as a whole and this is one of the sections that they have been working on so the larger issues will be  
14 addressed with future amendments to the Design Standards document.

15

16 Robert Garza, City Manager said there are a lot of things that we need to do with the Design  
17 Standards but this particular element was brought forward because of the content of this particular  
18 section doesn't necessarily deal with a lot of the other elements.

19

20 Lisa Murphy said the Traffic Standards are considered to be a more technical and operational section  
21 of the Design Standards and not so much a section where the larger policy issues are addressed.

22

23 Councillor Thomas said my problem with this is that it only talks about traffic like vehicular traffic  
24 is the only type of traffic that will happen on this street which is a big problem. We need to address  
25 this with a multi-modal approach to traffic on our streets.

26

27 Mayor Miyagishima asked is there a need for this to be passed or can we wait until after we have the  
28 work session on September 24<sup>th</sup>?

29

30 Lisa Murphy said I don't think there is any specific urgency for this to be passed today but I would  
31 have to check with staff to see if they would be prepared to make a presentation on the 24<sup>th</sup>.

32

33 Robert Garza said there are two specific things that staff is asking for today which doesn't really  
34 have to do with a holistic approach.

35

36 Willie Roman, Traffic Engineer gave an overhead presentation and said we are proposing to add  
37 definitions at the beginning of Section 32-401, update functional roadway classification in Section  
38 32-404, modify the minimum driveway distance criteria from intersections in Section 32-404.2(g),  
39 refer to the NMDOT Access Management Manual for acceleration and deceleration lanes in Section  
40 32-404.4, simplify the clear sight triangle criteria in Section 32-406, add the requirement of street  
41 lighting to be built by developer at the time of subdivision construction in Section 32-410.11 and add

1 a new requirement for personnel dealing with the placement of permanent or temporary traffic  
2 control devices within City ROW in Section 32-411.

3

4 Councillor Thomas said we have said time and time again that we want to have transportation  
5 planning and land use planning combined because they do have an impact on one another but I don't  
6 see that happening here.

7

8 Mayor Miyagishima said why don't we go ahead and move this forward and then have a work  
9 session sometime in October to discuss integrating these plans.

10

11 Councillor Thomas said I do think we need to have a long work session on what we are going to do  
12 with the Design Standards and how we are going to redo this entire thing.

13

14 Councillor Small said I agree with moving forward with this and then have a work session to discuss  
15 these issues further.

16

17 Mayor Miyagishima said we can tentatively set the work session for October 22<sup>nd</sup>.

18

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21 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 13-008; Ordinance  
22 No. 2663 and it was Approved. 6-0 Councillor Silva was Absent.

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26 (20) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 13-035;**  
27 **A PUBLIC HEARING MUST BE HELD.**

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29 Mayor Miyagishima said the Public Hearing for Resolution No. 13-035 is now open. Is there anyone  
30 who wishes to speak against this item?

31

32 None given.

33

34 Mayor Miyagishima closed the Public Hearing for Resolution No. 13-035.

35

36 Resolution No. 13-035: A Resolution Approving the Issuance of a Restaurant Liquor  
37 License to Kelly Tran D/B/A Pho Saigon Restaurant, Located at 1160 El Paseo Road, Suite  
38 D12, Las Cruces, New Mexico.

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40 Councillor Small Moved to Adopt Resolution No. 13-035 and Councillor Pedroza Seconded the  
41 motion.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-035 and it was Approved. 5-0 Councillor Silva and Councillor Sorg were Absent.

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(21) Resolution No. 13-036: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction for a Restaurant Liquor License to Burritos Victoria, Inc. D/B/A Burritos Victoria, Located at 1295 El Paseo Road, Las Cruces, New Mexico.

Councillor Thomas Moved to Adopt Resolution No.13-036 and Councillor Small Seconded the motion.

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Councillor Smith asked are there any churches or school near this location?

Mayor Miyagishima said no.

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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-036 and it was Approved. 6-0 Councillor Silva was Absent.

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(22) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 13-037;**  
**A PUBLIC HEARING MUST BE HELD:**

Mayor Miyagishima said the Public Hearing for Resolution No. 13-037 is now open. Is there anyone who wishes to speak against this item?

None given.

Mayor Miyagishima closed the Public Hearing for Resolution No. 13-037.

Resolution No. 13-037: A Resolution Approving the Issuance of a Restaurant Liquor License to Burritos Victoria, Inc. D/B/A Burritos Victoria, Located at 1295 El Paseo Road, Las Cruces, New Mexico.

Councillor Pedroza Moved to Adopt Resolution No. 13-037 and Councillor Thomas Seconded the motion.



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Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-037 and it was Approved. 6-0 Councillor Silva was Absent.

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(23) Resolution No. 13-038: A Resolution Approving the Painting of a Mural by Local Artists on the Southwest Wing Wall of the Underpass at the North End of Triviz Pathway.

Councillor Thomas Moved to Adopt Resolution No. 13-038 and Councillor Small Seconded the motion.

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Mark Johnston, Parks and Recreation Director said the original mural has been vandalized over the years and there is no way we can save the existing mural. The Parks and Recreation Advisory Board recommended approval of this mural and the paint will be provided by Keep Las Cruces Beautiful.

Councillor Smith said I am concerned with the continuation of graffiti so we need to consider that with this new painting.

Councillor Thomas asked is it possible to put a clear coating to prevent graffiti?

Mark Johnston said there is a graffiti product that can cover the artwork and we will be doing some more research on that for this mural.

Councillor Small said I like this design and this is an excellent example of our local talent giving back to the community.

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Councillor Silva joined the meeting at approximately 2:07 p.m.

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Councillor Sorg asked do you think it would be less likely to be vandalized if there were more lights in this area.

Mark Johnston said we have had no vandalizing inside the tunnel where it is very dark so sometimes light can attract this activity and sometimes the dark can attract it.

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3 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-038 and it was  
4 Unanimously Approved. 7-0  
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8 (24) Resolution No. 13-039: A Resolution to Adjust the Adopted Fiscal Year 2013 Budget  
9 Allowing for Carry Over Budget of Operating and Capital Costs From Fiscal Year 2012 for  
10 the City of Las Cruces, New Mexico.  
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12 Councillor Thomas Moved to Adopt Resolution No. 13-039 and Councillor Pedroza Seconded the  
13 motion.  
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17 Dick Gebhart, Budget Director gave an overhead presentation and said this is a routine adjustment  
18 that is done during the fiscal year transition but it is not for ongoing budget expenses. There are 74  
19 funds adjusted and 320 separate budget items adjusted which include 266 expenditures, 40 revenues  
20 and 14 transfers.  
21

22 Councillor Small said it is good news that we are coming out better than we projected. I could see  
23 myself supporting this resolution if we have some firm commitments that we are going to be doing  
24 additional investments beyond the street maintenance dollars that are already allocated.  
25

26 Robert Garza, City Manager said this is like the City's savings account and in addition to these funds  
27 that we are able save there is another item in your packet for the sale of a City property which those  
28 funds would also be put aside. We are planning to have a work session with our Bond Council and  
29 Financial Advisors to discuss things like our cash on hand and our bonding opportunities.  
30

31 Councillor Pedroza said I heard a comment from someone on the tennis courts that you have to  
32 compliment everyone at the City because we've got the best kept streets of anyone else around so  
33 I'm passing that on to you. I also received comments from people stating that their streets have not  
34 been paved in several years. There was a discussion regarding some kind of equipment that would  
35 go over our streets and give us a better idea of where the worse streets are but I haven't seen anything  
36 on it recently so I would like to get an update on it.  
37

38 Robert Garza said you are referring to our Pavement Management System, they did a citywide  
39 assessment that we do have reports and maps by Council District which we can get for you.  
40

41 Councillor Thomas said I think we all need a little more discussion on this because I think there is  
42 a minimal amount going into things that are desperately needed right now. There are quite a few  
43 plans that need a little bit of an investment to get them off the ground and I also think we need to

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1 look at putting money into things that will generate revenue. I understand about the streets but we  
2 do have this program and we can look at making decisions on roads based on hard evidence which  
3 is good but I really want to start looking at other things like programs that just need a little funding  
4 to get started and will produce revenue.

5

6 Councillor Sorg said we should have a work session where we can discuss this in more detail but I'd  
7 like to know if Public Works is doing a priority list for streets?

8

9 Robert Garza said Public Works is making a list of projects that they are recommending we consider  
10 for the various maintenance strategies that they have within their budget.

11

12 Councillor Silva said our CIP list is in the area of about \$64 million; correct?

13

14 Robert Garza said the current fiscal year has about \$60 million in it and we do have a separate  
15 Capital Improvements Plan that is a five year plan and it has about \$400 million in identified projects  
16 which most are not funded.

17

18 Councillor Silva said I like that we can start saving money and I think it is more about leveling our  
19 funds so we can obtain bonding and really stretch our dollars.

20

21 Robert Garza said we do need to keep in mind that there will probably be a time when the Hold  
22 Harmless is repealed which will impact us by about \$8 million so the \$4 million that we didn't spend  
23 will help us with that impact.

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27 Mayor Miyagishima called for the roll on the Motion to Adopt Resolution No. 13-039 and it was  
28 Approved. 6-0 Councillor Sorg was Absent.

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

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36 Councillor Thomas Moved to Adopt Council Bill No. 13-007; Ordinance No. 2662 and Councillor  
37 Small Seconded the motion.

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41 Barry Cole, Building Inspector gave an overhead presentation and said this boils down to some  
42 people want or need more light and some people want or need less light at night. The issues in

1 regulating outdoor lighting are with glare, light trespassing, sky glow, energy use, security and safety.  
2 The issues with glare, light trespassing and sky glow can be somewhat subjective depending on the  
3 individual and their location. Light for security is intended to protect people and property from  
4 criminal activities and light for safety is intended to provide safe working conditions, safe passage  
5 and identification of hazards or obstructions. The existing Outdoor Lighting Ordinance was adopted  
6 by Council on August 7, 2000 and a comprehensive review of it began in the spring of 2009. There  
7 was a Public Comment Meeting on July 29, 2009 and a City Council Work Session on February 22,  
8 2010. The amortization deadline was extended from August 2010 to August 2012 and there were  
9 additional Public Input Meetings to discuss the rewrite of this ordinance on December 13, 2011 and  
10 January 31, 2012. The New Mexico Night Sky Protection Act has been in place since 1999 and it  
11 uses shielded fixtures or a curfew of 11:00 p.m. to sunrise. Some of the difficulties we have  
12 encountered with the existing ordinance is that it doesn't allow flag lighting, it doesn't address  
13 digital billboards and signs, it uses the outdated cutoff classification for outdoor luminaires and  
14 we've had difficulties with the treatment of existing outdoor lighting when things are done to the  
15 property because our current policy states when \$25,000 worth of renovations are done then all the  
16 outdoor lighting has to come into compliance. The new proposed ordinance does address residential  
17 outdoor lighting, the amount of light that is put out by billboards and signs and it offers latitude in  
18 commercial design. The new ordinance also allows for special permits and it changes the treatment  
19 of existing outdoor lighting. It allows for residential lighting to have one unshielded 1800 lumens  
20 fixture at the entrance, as many as you wanted partially shielded 900 lumens luminaires, as many as  
21 you wanted unshielded 450 lumens luminaires and as many security lights as you wanted but they  
22 have to have a shut-off time of 15 minutes and the bulbs have to be angled down. The proposed  
23 ordinance recognizes existing legally-installed outdoor lighting, compliance is required only if the  
24 luminaire is replaced or there is a major change on the property and there is no amortization clause.  
25 If this ordinance is approved then staff would suggest that we have a phase-in time so we can educate  
26 the public on it.

27

28 Councillor Smith asked will we be using Code Officers at night to see if there is any light  
29 trespassing?

30

31 Barry Cole said we anticipate continuing what we are currently doing which is looking at the light  
32 fixtures during the construction process and addressing complaints as they come in.

33

34 Councillor Smith said the outdoor advertising folks are saying that the number of nits are not actually  
35 up to the level that they are currently using so is that something that the building officials would  
36 address or would we need to make an amendment to this document?

37

38 Barry Cole said we were made aware of that this morning so if this is approved then there would  
39 need to be an amendment.

40

41 Councillor Smith said I was asked if we could clarify Section 39-19 because it states that each day  
42 could be a separate offense so are we saying that we could indefinitely be adding a \$50 to \$300 per  
43 day charge for one offense if it is not addressed?

1  
2 Barry Cole said the short answer is yes and that language was taken out of the Municipal Code.  
3  
4 Councillor Smith said there is a letter from the attorney who is representing the Pic Quik folks and  
5 it states that they feel there are five primary problems with this proposal which are that it ignores a  
6 significant source of outdoor lighting which includes roadway lighting, they believe it includes  
7 unconstitutional delegation of authority to the City staff, it relies on the BUG certification which they  
8 claim is a new standard and not widely available, they feel the limited grandfather provision  
9 discourages residents from upgrading, and it introduces a lighting zone classification that they don't  
10 believe is necessary so they are questioning its constitutionality.  
11  
12 Barry Cole said roadway lighting falls under a different standard which is the Illuminating  
13 Engineering Society Standard. The City has already started a program in the year 2000 of replacing  
14 the street lights and about 90% to 95% of the City owned street lights have already been replaced.  
15 Under the existing ordinance the City facilities are exempt but under the new proposed ordinance  
16 they would have to follow the same rules as everyone else.  
17  
18 Regarding the delegation of authority to the staff, under our current ordinance and under the  
19 proposed ordinance through the plan process the person doing the review has a set of guidelines  
20 which is through the ordinance that they would look for and the construction process would basically  
21 be the same.  
22  
23 Harry (Pete) Connelly, City Attorney said we believe this proposed ordinance is constitutional.  
24  
25 Barry Cole said regarding the BUG rating, from my personal research some lights don't even have  
26 a BUG rating but I have found BUG ratings for fixtures.  
27  
28 Councillor Thomas said we have spent a lot of time on this and we have worked with the local  
29 outdoor lighting providers who do have some kind of national guidelines that they use but I'd like  
30 to know how we are going to address the issues with the lighting of billboards.  
31  
32 Barry Cole said there are two schools of thought for billboards and signs which are the Walk-Tilt  
33 Report and the position statement taken by the Outdoor Advertising Association. The Outdoor  
34 Advertising Association stated that they would rather measure light by using lumines to see how  
35 much light is actually falling on you but the downfall with that is that the more light that is around  
36 the billboard then the more light the billboard will give out.  
37  
38 Councillor Thomas said I have a greater understand of this after your presentation but I still think  
39 there is a strong need to educate the public on this issue.  
40  
41 Councillor Pedroza said there were issues with the movement/motion of billboards and how  
42 distracting they are to drivers but I don't see anything address that in this ordinance.  
43

1 Barry Cole said the issue of the motion of signs is better addressed in the Sign Code.

2

3 Oscar Andrade, Member of the Public said I am the owner of the Pic Quik stores and one of the  
4 things we are finding issues with is with bank financing for existing and new buildings because there  
5 is such an increase in cost for light fixtures.

6

7 Councillor Thomas said we are doing away with the \$25,000 remodel amount and I think we just  
8 need to educate the public on the types of lighting that can be used.

9

10 Roy Granado, Member of the Public said I am with Luminaire Outdoor Lighting and the City staff  
11 did listen to the community so I think they came up with a good compromise for the outdoor lighting.  
12 The current lighting that we use is set for 350 nits at night but during the day it is 7500 nits so maybe  
13 you can make an amendment to it because everyone seems to be okay with the settings of our current  
14 boards.

15

16 Councillor Silva asked when did the BUG system come into place?

17

18 Barry Cole said the first system was done sometime in the mid 70s for street lights and then they  
19 began working on improving it in the early 2000s and by 2007 they developed TM-15 which is the  
20 BUG rating we are using now.

21

22 Councillor Silva asked why aren't we requiring this BUG rating to our street lights?

23

24 Barry Cole said City streets light are already designed to the Luminating Engineer Society's standard  
25 but all of the other City lights like the ones at our facilities would be required to be in compliance.

26

27 Councillor Small said there are benefits with moving forward like the elimination of the \$25,000  
28 threshold but we do need to make sure that there is good and clear information available for the  
29 public.

30

31 Barry Cole said there will be in-house education as well as education for the public.

32

33 Councillor Small asked what would be a reasonable time-line if this was approved today?

34

35 Barry Cole said when the State adopts a new Building Code they have an effective date and they  
36 allow six months to use both the new and old Code and then after the six months is up then only the  
37 new Code is used. I think if we use something like that even if it was for three months then that  
38 would give designers and developers time to make adjustments.

39

40 Councillor Small asked what is the sense for any type of potential balance with the levels that have  
41 already been outlined?

42

1 Barry Cole said we chose the levels in the proposed ordinance based on what we thought was the  
2 baseline, the acceptable non-intrusive digital billboards that were in place at the time. If we find that  
3 those measurements were in error then staff would recommend that we follow with what is actually  
4 in place right now because it seems to be a good standard.

5

6 Councillor Small said I am comfortable with us moving ahead with this but when would that type  
7 of an amendment come back to Council?

8

9 Robert Garza said it'd probably be the latter part of next month.

10

11 Councillor Sorg said I do sympathize with businesses and their cost of doing business and I would  
12 like to have some hard numbers regarding this ordinance but we do need to be in compliance with  
13 the rest of the country.

14

15 Councillor Silva said its hard to make a decision when we don't have some of the facts before us and  
16 we've worked on this long enough that we should have a financial impact study already done. I think  
17 we are very close to final product but I just don't think we are there yet. I do support having a Light  
18 Ordinance but I don't care at all for these light-up billboards so it is hard for me to support this now.

19

20

21

22 Councillor Small Moved to Amend Council Bill No. 13-007; Ordinance No. 2662 to add "that this  
23 ordinance will go into effect March 1, 2013" and between September 4, 2012 and March 1, 2013  
24 either the existing ordinance or this new ordinance may be used and Councillor Thomas Seconded  
25 the motion.

26

27

28

29 Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 13-007; Ordinance  
30 No. 2662 to add "that this ordinance will go into effect March 1, 2013" and between September 4,  
31 2012 and March 1, 2013 either the existing ordinance or this new ordinance may be used and it was  
32 Unanimously Approved. 7-0

33

34

35

36 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 13-007; Ordinance  
37 No. 2662 as Amended and it was Unanimously Approved. 7-0

38

39

40

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

42

1 -----  
 2  
 3 Mayor Miyagishima said all those in favor signify by stating Aye.  
 4  
 5 Council stated Aye.

6  
 7 -----  
 8  
 9 Meeting recessed at approximately 4:47 p.m.

10  
 11 Meeting reconvened at approximately 4:55 p.m.

12  
 13 -----  
 14  
 15 **IX. BOARD APPOINTMENTS**

16  
 17 Mayor Miyagishima appointed Max Bower and Chrys Uhlig to the Capital Improvement Advisory  
 18 Committee.

Draft

19  
 20 -----  
 21  
 22 Councillor Small Moved to Approve the Mayor's board appointments of Max Bower and Chrys  
 23 Uhlig to the Capital Improvement Advisory Committee and Councillor Thomas Seconded the  
 24 motion.

25  
 26 -----  
 27  
 28 Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appointments  
 29 of Max Bower and Chrys Uhlig to the Capital Improvement Advisory Committee and it was  
 30 Approved. 6-0 Councillor Pedroza was Absent.

31  
 32 -----  
 33  
 34 Mayor Miyagishima appointed Joe Dearing (District 6), Philip G. Leyendecker (District 4) and John  
 35 C. Muir III (District 5) to the Airport Advisory Board.

36  
 37 -----  
 38  
 39 Councillor Thomas Moved to Approve the Mayor's board appointments of Joe Dearing (District 6),  
 40 Philip G. Leyendecker (District 4) and John C. Muir III (District 5) to the Airport Advisory Board  
 41 and Councillor Sorg Seconded the motion.

42

1 -----  
2  
3 Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board appointments  
4 of Joe Dearing (District 6), Philip G. Leyendecker (District 4) and John C. Muir III (District 5) to  
5 the Airport Advisory Board and it was Approved. 6-0 Councillor Pedroza was Absent.

6  
7 -----  
8  
9 Mayor Miyagishima reappointed Matthew P. Holt and Robert Peterson to the Labor Management  
10 Relations Board.

11  
12 -----  
13  
14 Councillor Sorg Moved to Approve the Mayor's board reappointments of Matthew P. Holt and  
15 Robert Peterson to the Labor Management Relations Board and Councillor Thomas Seconded the  
16 motion.

Draft

17  
18  
19  
20 Mayor Miyagishima called for the roll on the Motion to Approve the Mayor's board reappointments  
21 of Matthew P. Holt and Robert Peterson to the Labor Management Relations Board and it was  
22 Approved. 6-0 Councillor Pedroza was Absent.

23  
24 -----  
25  
26 **X. REVIEW OF PROPOSED ORDINANCE(S)**

27  
28 (26) Council Bill No. 13-010; Ordinance No. 2665: An Ordinance Authorizing a Real Estate  
29 Purchase Agreement Between the City of Las Cruces and Union Avenue LLC, for the Sale  
30 of 2.08 Acres of Municipally Owned Land at 101 E. Union Avenue for the Purchase Price  
31 of Eight Hundred and Fifty Thousand Dollars (\$850,000.00), in Accordance with Provisions  
32 of LCMC 1997, Section 2-1312.

33  
34 Mayor Miyagishima and Council agreed to bring this item back.

35  
36 (27) Council Bill No. 13-011; Ordinance No. 2666: An Ordinance Authorizing a Real Property  
37 Sale and Use Agreement Between the City of Las Cruces and Jal Properties, LLC, A/K/A  
38 "Angel Care" for Municipally Owned Property Located at 2225 E. Griggs Ave., Las Cruces,  
39 NM 88001 For the Amount of \$45,000 and Additional Consideration for the City's  
40 Continued Use of the Property for the City's Parks & Recreation Department's Therapeutic  
41 Programs at No Cost to the City for a Period of Five (5) Years, With the Option to Renew

1 in Five (5) Year Increments from the Closing Date in Accordance with the Provisions of  
2 New Mexico State Statute Section 3-54-1.

3

4 Mark Johnston, Parks and Recreation Director gave an overhead presentation.

5

6 Mayor Miyagishima said there will be no public input because this is the 1<sup>st</sup> read so anyone who  
7 wishes to submit their comments to Council can submit them to the City Clerk.

8

9 Mayor Miyagishima and Council agreed to bring this item back.

10

11 -----

12

13 **XI. CITY COUNCIL MEMBER BOARD REPORTS**

14

15 Mayor Miyagishima said the only way a board can bring a report before Council is if Council  
16 requests that they present it so I would ask that if anyone on Council wishes to have a report given  
17 that they ask for it during a meeting to have it presented at the next Council meeting.

18

19 Councillor Smith said several Councillors sit on several committees so we don't need to report on  
20 every single committee, we only report on the ones we feel that something is happening that needs  
21 to be reported; correct?

22

23 Mayor Miyagishima said no, the report has to be requested by Council.

24

25 Councillor Smith said I would like to request a report from the Mesilla Valley Economic  
26 Development Alliance.

27

28 Councillor Thomas said I would like to request a report from the South Central Regional Transit  
29 District and the HUD grant program.

30

31 Robert Garza, City Manager said just for clarification, this section was added to our agenda to allow  
32 Council to tell your peers about what you are doing whether it is on a board or work on a special  
33 project. If it is about a board then you can state there is something going on with this board and ask  
34 Council if they would like to hear about it at the next meeting and if there is a consensus then you  
35 can speak about it at the next meeting. You can also state that you would like to hear about what is  
36 happening on a certain board at the next meeting during this section of the agenda.

37

38 Councillor Thomas said I think we also need to look at the complications with the MPO committee  
39 because we are asked to bring things back to our communities. I would like to change my previous  
40 statement to state that there are several interesting things happening with the South Central Regional  
41 Transit and the HUD grant program which I would like to report on if Council wishes to hear it.

42

1 Mayor Miyagishima said absolutely.

2

3 Councillor Pedroza said there is a committee that is working on the Campaign Finance Reform and  
4 I would like to know the status of that committee and when we would be receiving a draft?

5

6 Mayor Miyagishima said they will be presenting to Council next Monday on September 10<sup>th</sup>.

7

8

9

10 **XII. GENERAL DISCUSSION**

11

12 1. Mayor

13

14 Mayor Miyagishima said in the New Mexico Business Weekly it listed that for the first seven months  
15 of 2012 Las Cruces had more than \$180 million in construction contracts with a 44% gain and it also  
16 stated that Las Cruces has the strongest market in New Mexico.

17

18

19

20 2. City Council

21

22 Councillor Thomas said I want to congratulate Chief Williams, Shannon Martin and Mark Nunley  
23 on the nice newsletters that they did for this week's Manager's Report.

24

25 There was an article in the Business Weekly regarding economic gardening and it stated they now  
26 have funding for ten projects so if you go to the Edward Lowe Foundation site and do a search for  
27 New Mexico it will take you to a page that lists the requirements for this funding.

28

29

30

31 Councillor Small said I feel strongly about us needing to search for ways to put additional  
32 investments into our streets.

33

34 The Mortgage Finance Authority sets criteria for affordable housing and tax credits and while our  
35 need is great here in Las Cruces we have consistently come in behind other communities so I think  
36 there is something significantly wrong there. I think we need to look into it and see if they can  
37 change the criteria to better reflect the needs and the affordability.

38

39

40

41 Councillor Pedroza said the Las Cruces Sun News had some excellent editorials based on history.

42

1 I am working with the NAACP on voter registrations and we are still asking for more volunteers to  
2 help take voter registrations.

3

4 There are several groups including Senator Bingaman's Field Representative that have offered to  
5 come educate and give advise to people regarding foreclosures.

6

7

8

9 Councillor Smith said yesterday was Labor Day so I would like to thank all those with careers that  
10 include physical labor.

11

12 Last week I attended the 57<sup>th</sup> Annual Water Conference and I think Las Cruces is in good shape but  
13 we still need to keep our future in mind.

14

15 I also attended the New Mexico Municipal League's Annual Meeting that was held here and there  
16 were a lot of compliments on our Convention Center and the Downtown.

17

18 I know the roadrunner figure is still looking for a new home so I hope we can find a way to include  
19 that iconic recycled sculpture in some approach location here in Las Cruces.

20

21 Robert Garza, City Manager said that roadrunner has recently been refurbished and we are looking  
22 for an area to place it. We will also probably have this as a work session item so we can further  
23 discuss viable locations.

24

25 Councillor Smith said we are going to be celebrating Mesilla Park's 125<sup>th</sup> Anniversary on September  
26 15<sup>th</sup>.

27

28 Due to an unfortunate burglary I have become aware of the need for further upgrades to our burglary  
29 data capabilities of our Police Department and there may be one-time funding opportunities available  
30 soon that could help us with the database.

31

32 There is an issue with one of our structures on the Historic Register being demolished prior to the  
33 permitted date and while the rights of the property owner should almost always triumph any  
34 ordinance I would like to know that our historic preservation ordinance is moving forward.

35

36

37

38 Councillor Silva said I also received a lot of positive feedback from the New Mexico Municipal  
39 League Conference last week and I would love to continue to be our voting delegate.

40

41 I want to thank Robert Garza and all the staff for doing a great job in managing our finances this  
42 year.

43

1 I want to congratulate our Utilities Department on doing such a great job on the Griggs Walnut  
2 Treatment Center that opened up in August.

3

4 The new Americas School which is opening up in the new Downtown Mall is a great facility and I  
5 think it is going to be a great asset to our community.

6

7 -----

8

9 3. City Manager

10

11 Robert Garza, City Manager said Fire Chief Brown had two new fire trucks parked in front of  
12 City Hall today and I want to thank Council for being able to fund this very important equipment.

13

14 I want to mention that the Las Cruces Notification System has over 1,000 people who have  
15 signed up to be notified of events and alerts and we are continuing to advertise it.

16

17

18

19 Meeting Adjourned at 5:39 p.m.

Draft