



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

**Regular Meeting**

**April 1, 2013  
1:00 P.M.**

**Council Chambers, City Hall**

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**MEMBERS PRESENT:**

**STAFF:**

Mayor Ken Miyagishima  
Councillor Miguel Silva, District 1  
Councillor Greg Smith, District 2  
Councillor Olga Pedroza, District 3  
Councillor Nathan Small, District 4  
Councillor Gill Sorg, District 5  
Councillor Sharon Thomas, District 6

Robert Garza, City Manager  
Harry (Pete) Connelly, City Attorney  
Esther Martinez-Carrillo, City Clerk

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**I. OPENING CEREMONIES**

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

Dr. Bobbie Green and the University Chorus sang 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.

Mayor Miyagishima, Robert Garza and Councillor Thomas recognized the Las Cruces High School Boys Varsity Basketball Team, Head Coach William Benjamin and Principal Jed Hendee for their 5A State Championship.

Mayor Miyagishima, Robert Garza and Councillor Thomas recognized Tomas Mendez for 20 years of service with the City of Las Cruces.

Councillor Thomas presented a Proclamation to Bill Wallace and declared April 2013 as Parkinson's Awareness Month.

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2 Councillor Thomas presented a Proclamation to Susie Facio and Veronica Doil and declared April  
3 2013 as Child Abuse Prevention Month.

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5 Councillor Thomas presented a Proclamation to Susan Brown and declared April 2013 as National  
6 Donate Life Month.

7  
8 Councillor Thomas presented a Proclamation to Graig Fenske and Les Finley and declared April 6,  
9 2013 as Arbor Day.

10  
11 Councillor Thomas presented a Proclamation to Jamie Phillips and declared April 6, 2013 as  
12 Multiple Sclerosis Awareness Day.

13  
14 Councillor Thomas presented a Proclamation to Glynis Miranda and declared April 9, 2013 as  
15 National Day of Service.

16  
17 Councillor Thomas presented a Proclamation to Deborah Lopez and declared April 14 thru April 20,  
18 2013 as National Public-Safety Telecommunication Week.

19  
20 Councillor Thomas presented a Proclamation to Elizabeth Ramirez Valdez and declared April 8 thru  
21 April 12, 2013 as Cancer Registrars Week.

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

29  
30 Mayor Miyagishima asked if anyone had any conflicts with anything on the agenda?

31  
32 None given.

33  
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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 Councillor Silva Moved to Approve the Agenda and Councillor Sorg Seconded the motion.  
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7 -----  
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9 Mayor Miyagishima called for the roll on the Motion to Approve the Agenda and it was  
10 Unanimously Approved. 7-0  
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12 -----  
13

14 **V. CITY COUNCIL MINUTES**  
15

- 16 \*(1) Regular Meeting of March 4, 2013
- 17 \*(2) Special Meeting of March 4, 2013

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21 **VI. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA**  
22

23 \*(3) Resolution No. 13-127: A Resolution Authorizing the Saratoga Room to Continue with the  
24 Permitting Process to all for the Sale and Consumption of Alcoholic Beverages Within a  
25 Restricting and Secure Area During the Ultimate Gladiator Dash to be Held on April 27,  
26 2013, at 2834 North Telshor, Las Cruces, New Mexico.  
27

28 \*(4) Resolution No. 13-128: A Resolution for the City of Las Cruces to Accept Legislative Re-  
29 Appropriation Funding in the Amount of \$31,184.31 from the Department of Finance and  
30 Administration, Local Government Division (DFA/LGD), General Fund Capital Re-  
31 Appropriation for the Las Cruces Regional Aquatic Center and Adjust the FY 2013 Budget.  
32

33 \*(5) Resolution No. 13-129: A Resolution Approving the Vacation of a Portion of Manzanita  
34 Street and the Associated Vacation Plat, Vacating Approximately 1,568 Square Feet of  
35 Excess City Right-of-Way Located at the Corner of Lucero Avenue and Manzanita Street and  
36 Deeding It to the Adjacent Property Owner, Elizabeth G. Ontiveros, on Behalf of the  
37 Affordable Housing Project Within the Corporate Limits of Las Cruces, Dona Ana County,  
38 New Mexico.  
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**VII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION**

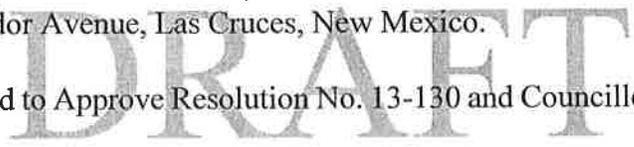
**(6) BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 13-130: A PUBLIC HEARING MUST BE HELD.**

Mayor Miyagishima said the Public Hearing for Resolution No. 13-130 is now open. Is there anyone who wishes to speak against this item?

None given.

Mayor Miyagishima closed the Public Hearing for Resolution No. 13-130.

Resolution No. 13-130: A Resolution Approving the Issuance of a Restaurant Liquor License to Delicias Chihuahua Café, Inc. D/B/A Café Delicias Cocina Mexicana Located at 1413 East Amador Avenue, Las Cruces, New Mexico.



Councillor Smith Moved to Approve Resolution No. 13-130 and Councillor Thomas Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 13-130 and it was Unanimously Approved. 7-0

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**(7) Resolution No. 13-131: A Resolution Authorizing the City of Las Cruces to Approve the City's Comprehensive Annual Financial Report for the Year Ending June 30, 2012**

Councillor Sorg Moved to Approve Resolution No. 13-131 and Councillor Thomas Seconded the motion.

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Mayor Miyagishima said it doesn't look like their presentation is loaded up on the computer so we will go on to the next item and then come back to this item afterward.

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Councillor Sorg Moved to Table Resolution No. 13-131 and Councillor Smith Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Table Resolution No. 13-131 and it was Unanimously Approved. 7-0

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(8) Resolution No. 13-132: A Resolution Adopting a Memorandum of Agreement Between the City of Las Cruces and the Non-Profit Corporation Known as Farmers & Crafts Market of Las Cruces, Inc. for the Governance and Operation of the Las Cruces Farmers and Crafts Market.

Councillor Small Moved to Approve Resolution No. 13-132 and Councillor Silva Seconded the motion.

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Andy Hume, Senior Planner gave an overhead presentation and said before you is the Memorandum of Agreement between the City and the Farmers and Crafts Market which will establish a working relationship between the City and the Farmers and Crafts Market. The Farmers Market is a non-profit organization and it is currently working on its 501C status for federal non-profit. There are two phases of the Memorandum of Agreement which the first is the governance and operations for the final first quarter of City oversight and the second is regarding the governance procedures after July 1, 2013. The MOA will require the continued cooperation between the City, the Farmers and Crafts Market, Downtown merchants, Downtown property owners and any other stakeholders. This MOA was adopted by the Farmers and Crafts Market Board on March 21, 2013. We are also developing a lease agreement which will be before Council in May and we also need to make an update to the Farmers Market and Fees Ordinance which we should have before Council in June. We do need to make one minor amendment to this document which is on page 5, we need to include the Farmers and Crafts Market mailing address.

Councillor Smith said I noticed on page 4, regarding the equal opportunity compliance, we refer to sexual preference which I think often times is referred to as sexual orientation so I was just wondering if we had standard language that we use for these types of statements? I don't know if that would be a complicated change or something we can do administratively.

Councillor Thomas said on page 5 regarding the third party beneficiary clause, what is the intent of that section?

Andy Hume said that is information to let other people know that only the parties to this document are the only ones intended for the benefit of any of the items in here.

1 Harry (Pete) Connelly, City Attorney said that provision is there because we learned in litigation with  
2 others that unless we have that in there someone will come up and say that they are a third party  
3 beneficiary.

4  
5 Councillor Thomas said regarding number 9, dispute resolution, do we have an appeals process in  
6 place or is this stating that we may establish one?

7  
8 Andy Hume said that basically states that before things get nasty, lets try a reasonable way to resolve  
9 the differences and I am not aware of the City having any specific dispute resolution issues.

10  
11 Robert Garza, City Manager said the way we resolve issues all depends upon the sort of dispute we  
12 have so it can be anything from mediation, arbitration, to all different types of methods. It all  
13 depends on the situation so it is best that we leave this section like it is written.

14  
15 Councillor Thomas said I guess it makes me a little nervous that we don't have a set way to initiate  
16 these things.

17  
18 Councillor Silva asked can we include Downtown businesses and property owners? This agreement  
19 is between the City and the corporation, although it states that it is limited to the City, the  
20 corporation, Downtown businesses and property owners. We are not entering into an agreement with  
21 the Downtown businesses and property owners so how can we include them in this appeal process  
22 since this agreement is only between us and the corporation?

23  
24 Mayor Miyagishima said it states "including but not limited to" which is kind of a catch all phrase  
25 that should cover it.

26  
27 Harry (Pete) Connelly said I concur with the Mayor's opinion. It amounts to that if there is a  
28 Downtown merchant with a complaint about what the Farmers Market is doing then we would  
29 attempt to resolve it because it is still City property.

30  
31 Councillor Thomas said regarding the last sentence of number 10, we agree to something but we  
32 don't have the money to do it then we don't do it, is that basically the message?

33  
34 Andy Hume said the City's budget process is the final say on how much funds will be spent in  
35 support of the Downtown or the Farmers Market so that was just clarification in case the corporation  
36 thought they would have a say in how the City spends its own money.

37  
38 Councillor Thomas said so when we get to the lease part, how is it going to work regarding the  
39 Attorney General and charging market rate?

40  
41 Robert Garza said the details will have to be worked out but we have the Attorney General's opinion  
42 regarding anti-donation issues so the MOU will outline what they will be doing for us and the costs  
43 in order for us to justify some of the expenditures so it will pretty much be a wash.

- 1  
2 Councillor Pedroza said I want to congratulate everyone that was involved with this and I think it  
3 is very well written.  
4  
5 Councillor Silva said there has been a lot of good work done during this process to get the Farmers  
6 Market to be self-governing and this is a partnership where the City is still maintaining and  
7 managing Main Street, the management of the activities and so forth will be done by the corporation.  
8  
9 Regarding the two transitions, during the first period the City is going to collect fees; correct?  
10  
11 Andy Hume said the City will do the billing for the first quarter; however, in an effort to transition  
12 over to market operations for the board, the corporation will collect the fees for the City and in turn  
13 use those fees to establish an initial startup.  
14  
15 Councillor Silva said so beginning July 1<sup>st</sup> we will no longer be collecting the fees from the Farmers  
16 Market vendors.  
17  
18 Andy Hume said that is correct.  
19  
20 Councillor Silva said regarding page 3, Item G, shouldn't it state that we will coordinate with all  
21 Downtown including the corporation?  
22  
23 Andy Hume said the purpose of that item is to include any and all currently existing Downtown  
24 associations or any groups that may be formed in the future. We can simplify it by stating  
25 "coordinate with the corporation and all Downtown stakeholders."  
26  
27 Councillor Silva said sure, I think that is something that we may want to considered.  
28  
29 Also, under the responsibility of the corporation, governing and operations of the market, vendor fees  
30 and so forth, standard operating procedures number 2A, it seems like we would want to have that  
31 on file with the City Clerk; wouldn't we?  
32  
33 Andy Hume said I'm sure the corporation would not have a problem with supplying the most current  
34 version to the City Clerk's office.  
35  
36 Councillor Silva said on the next page, Item E, regarding the TIDD...  
37  
38 Andy Hume asked did you want to add that as an amendment to 2A?  
39  
40 Councillor Silva said sure.  
41  
42 Under E, providing the payment of taxes, referring to the TIDD, is that just to be utilized as

1 information to help the City because they won't be collecting the fees or anything, just providing  
2 proof of payment; so, it's just going to be for information; correct?

3

4 Andy Hume said yes.

5

6 Councillor Silva said under F it states "establishing and maintaining procedures to promote the  
7 market outside of Dona Ana," I would assume that would probably be under the City's  
8 responsibilities as well because it would seem that the City would want to promote the market. I  
9 don't understand why that is not a City responsibility.

10

11 Andy Hume said my understanding is that the City is most interested in promoting the market within  
12 Las Cruces and Dona Ana County and we were interested in the market going beyond those reaches.  
13 We could make F into C3 so it would be both parties responsibility.

14

15 Councillor Silva said I would say that it should be the responsibility of both parties.

16

17 I would like to make a couple of changes to the actual resolution. Under the second "Whereas" it  
18 states "Whereas, over the past few years the Las Cruces Farmers Market has been named the number  
19 one market in New Mexico" and I believe we were number one in the U.S. in 2011.

20

21 Andy Hume said in 2011 we were number one in both New Mexico and the United States and then  
22 last year we were number one in New Mexico.

23

24 Councillor Silva said I think being number one in the U.S. is certainly something to boast and I think  
25 for the record it would be really nice if we could say within this ordinance that "in 2011 lay claim  
26 to be the number one market in both the U.S. and New Mexico." So that would be my second  
27 modification.

28

29 The third one, on page 3 under H, it talks about repealing Las Cruces Municipal Code sections,  
30 should "H" be within the "Whereas" or within the main ordinance as well or just having it in the  
31 document will work because we will be repealing the Municipal Code; right?

32

33 Robert Garza, City Manager said I think that entire section talks about the City's responsibilities so  
34 I think that is just saying that is something we need to do and that we intend to do it.

35

36 Councillor Silva said okay. So my two amendments are that the documents be filed with the City  
37 Clerk and that we change the second "Whereas" to read "in 2011, lay claim to be the number one  
38 market in both the U.S. and New Mexico."

39

40 Andy Hume said just to clarify, on page 4 are we also moving Item F to make it a new 3C?

41

42 Councillor Silva said correct.

1

2 Andy Hume said so there are potential three amendments and including my amendment for the  
3 address, that would make four amendments.

4

5 Mayor Miyagishima said lets do the amendments to the resolution first then to the MOA.

6

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9 Councillor Silva Moved to Amend Resolution No. 13-132 under the second "Whereas" on page 110,  
10 it would read "Whereas, the Las Cruces Farmers Market has been named the Number One Market  
11 in New Mexico and in 2011 lay claim to being the best market in the United States and Las Cruces"  
12 and Councillor Small Seconded the motion.

13

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15

16 Councillor Pedroza said rather than saying "lay claim" say it "was claimed."

17

18 Councillor Silva said you are correct so it would be "in 2010 the United States was rated"...

19

20 Mayor Miyagishima said ranked.

21

22 Councillor Smith said there was a poll taken by an online service but I don't recall their name.

23

24 Andy Hume said I believe it was Farmland Trust.

25

26 Councillor Smith said perhaps we should include that language to clarify where that designation  
27 came from.

28

29 Mayor Miyagishima said we are just sticking with the amendment as worded.

30

31 Councillor Silva said so it would be "in 2011 were rated number one in both the United States and  
32 New Mexico by the Farmland Trust."

33

34 Russ Smith, Member of the Public said voting through Farmland Trust voted favorite Farmers  
35 Market in America for 2011.

36

37 Councillor Silva said and in New Mexico; right?

38

39 Russ Smith said yes, and in New Mexico in 2011.

40

41 Mayor Miyagishima asked can you repeat your amendment?

42

1 Councillor Silva said so it would read “in 2011 were voted number one favorite Farmers Market by  
2 American Farmland Trust.”

3

4 Mayor Miyagishima said are you okay with the Second?

5

6 Councillor Small said yes.

7

8

9

10 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 13-132 under the  
11 second “Whereas” on page 110, it would read “Whereas, the Las Cruces Farmers Market has been  
12 named the Number One Market in New Mexico and in 2011 were voted number one favorite  
13 Farmers Market by American Farmland Trust” and it was Unanimously Approved. 7-0

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16

17 Mayor Miyagishima said now we can go to the MOA.

18

19

20

21 Councillor Smith Moved to Amend on page 4, over 15, on the equal opportunity piece, and it was  
22 Item 5, change sexual preference to sexual orientation and Councillor Pedroza Seconded the motion.

23

24

25

26 Mayor Miyagishima said so on page 116 we’re changing the word preference to orientation; correct.

27

28 Councillor Smith said correct.

29

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31

32 Mayor Miyagishima called for the roll on the Motion to Amend on page 4, over 15, on the equal  
33 opportunity piece, and it was Item 5, change sexual preference to sexual orientation and it was  
34 Unanimously Approved. 7-0

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38 Mayor Miyagishima said on page 6 we need to add the address PO Box 16467, Las Cruces, NM  
39 88004.

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DRAFT

1 Councillor Smith Moved to Amend on page 6 add the address PO Box 16467, Las Cruces, NM  
2 88004 and Councillor Small Seconded the motion.

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6 Mayor Miyagishima called for the roll on the Motion to Amend on page 6 add the address PO Box  
7 16467, Las Cruces, NM 88004 and it was Unanimously Approved. 7-0

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11 Councillor Silva said on page 3, which is 114, Item G; how did you state it, Andy?  
12  
13 Andy Hume said to say “coordinate with the corporation and all Downtown stakeholders regarding  
14 Downtown policies or ordinance amendments.”

15  
16 Councillor Silva said I think I want to use the word “include” instead of “coordinate” because I don’t  
17 want to automatically assume the Downtown Farmers Market would be included for things like  
18 maybe we are working on a building sale or something that still involves the Downtown; that is my  
19 concern here.

20  
21 Mayor Miyagishima said we can change it to “coordinate and/or include.”

22  
23 Councillor Silva said okay.

24  
25 Councillor Thomas said it states “regarding policy or ordinance amendments” so it is only for those  
26 specific things; not things like trying to sell a building.

27  
28 Mayor Miyagishima said I think it is worded okay.

29  
30 Councillor Silva said okay, we can leave “G” as it is then.

31  
32 Councillor Thomas said I agree with changing it to “stakeholder” but I don’t know if we should  
33 change “coordinate”.

34  
35 -----  
36  
37 Councillor Silva Moved to Amend on page 3, which is 114, Item G, to state “coordinate with the  
38 corporation and all Downtown stakeholders regarding Downtown policies or ordinance  
39 amendments”and Councillor Thomas Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Amend on page 3, which is 114, Item G, state “coordinate with the corporation and all Downtown stakeholders regarding Downtown policies or ordinance amendments”and it was Unanimously Approved. 7-0

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Councillor Silva said my next amendment is on 2B and the only thing we want added there is “and filed with the City Clerk.” So we will have all their By-laws, policies and procedures filed with the City Clerk. It will read “ to maintain and implement governance and operational documents and to be filed with the City Clerk.”

Mayor Miyagishima said we can just say “which shall be filed with the City Clerk” at the end of document.”

DRAFT

Councillor Silva said that will be fine.

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Councillor Silva Moved to Amend on 2B add “which shall be filed with the City Clerk” and Councillor Smith Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Amend on 2B add “which shall be filed with the City Clerk” and it was Unanimously Approved. 7-0

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Councillor Silva said my final one would be on page 115, under F; how did you word it, Andy?

Andy Hume said I would recommend moving 2F down into Section 3 which is the responsibilities of both parties and making it Item C and renumbering accordingly.

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Councillor Silva Moved to Amend to move 2F down into Section 3 which is the responsibilities of both parties and making it Item C and renumbering accordingly and Councillor Smith Seconded the motion.

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2 Mayor Miyagishima called for the roll on the Motion to Amend to move 2F down into Section 3  
3 which is the responsibilities of both parties and making it Item C and renumbering accordingly and  
4 it was Unanimously Approved. 7-0

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6 -----  
7  
8 Councillor Silva said I want to congratulate all the vendors that are involved, the executive board  
9 for the Farmers Market, the board members, and everyone else who has put a lot of effort into  
10 continuing to make the Farmers Market number one.

11  
12 Councillor Small said I echo Councillor Silva's comments and I'd also like to congratulate Andy and  
13 the other staff who have been such constant and willing partners and I would like for us to keep our  
14 communication as good as it is now.

15  
16 Councillor Smith said I echo the comments that have been made so far. We do have something  
17 fantastic going on in Las Cruces and I think there are a lot of other things that hook into this and I'm  
18 looking forward to hearing what the public has to say but I do want to say "kudos" to all who have  
19 been involved. I think this is a shining piece of what we have going on here.

20  
21 Councillor Sorg said some of the comments from my constituents are that some of the vendors there  
22 see people from all over the nation, in fact, all over the world and maybe some day we will be  
23 internationally famous.

24  
25 Karen Perez, Member of the Public said I have been asked by a couple of the musicians, which one  
26 of them is my son, to come and talk to you about the musicians and the performing artist who are  
27 a part of the Farmers Market and to ask whether or not the City Council and the new corporation  
28 support the musicians and the performing artists that are at the Farmers Market? There is some new  
29 and old regulations that are being applied a little unevenly as far as the location of the  
30 musicians. There are placements for the musicians that are marked with orange cones and the  
31 locations are in open areas which my son is in a location with no shade or protection from the  
32 weather and that is really damaging to his instrument. A lot of the kid musicians are out there to raise  
33 money for organizations like the Animal Shelter or to raise for their own pocket money. They are  
34 part of the Farmers Market and Mr. Hume has offered to meet with the musicians if that is something  
35 that Council would support.

36  
37 Carrie LaTour, Executive Director of the Downtown Las Cruces Partnership said I'm here to  
38 represent the organization and to say that we are here to help in any way that we can.

39  
40 Russ Smith, Member of the Public said in the past there were some difficulties but now we find  
41 advocacy on both parts of the merchants and the vendors which is a wonderful state of affairs and  
42 we need to hold on to these good things throughout this process so we should have periodical  
43 reviews on how things are going with the merchants and with the market.

1  
2 Mayor Miyagishima said on page 115, 2D, it does talk about providing a semi-annual state of the  
3 market report and presentation to City Council so I think that would be a good opportunity for that.

4  
5 Russ Smith said if that is used well then excellent, just as long as everyone is getting the same  
6 information at the same time.

7  
8 Mayor Miyagishima said the market is something that we want to make sure maintains and increases  
9 its effectiveness and we want to be sure to include everybody.

10  
11 Councillor Smith said I would just add that I do think there is a commitment on the part of people  
12 like Randy Harrison who has done the great conversations; the Downtown Las Cruces Partnership  
13 that has facilitated; I see Jean Williams, I see others who have been involved in this through this  
14 effort and I do think the Mayor is correct that there is something written in that does include a  
15 process but I think a lot of it will be contingent on the corporation and the different stakeholders to  
16 keep moving forward but I do think that commitment seems to be in place. So if you're comfortable  
17 with that and I hope you are, I think we're okay as far as moving forward and having that discussion  
18 continue.

DRAFT

19  
20 Councillor Sorg said in reading the MOA, the report is the responsibility of the corporation so I  
21 would think a dispute would be taken up by the corporation and the corporation would try its best  
22 to resolve the dispute; correct?

23  
24 Andy Hume said I would agree with you. There is a dispute resolution provision in place that would  
25 help so hopefully if it gets to that point it would help. On page 4, Item G, it states "establish and  
26 maintain procedures to provide clear, accurate and timely communication" so maybe if we move that  
27 down and make it Item 3D and clearly show it is the responsibility of both parties to maintain clear,  
28 timely and accurate communication, maybe that will help and make it clear.

29  
30 Russ Smith said all I'm trying to say with this is that as you present the market as a jewel of the City,  
31 the position of communication that we have right now is a jewel and it should be respected, utilized  
32 and kept as a jewel.

33  
34 -----

35  
36 Councillor Smith Moved to Amend on page 115, Item G, to move it to 3D, under responsibilities  
37 of both parties and Councillor Small Seconded the motion.

38  
39 -----

40  
41 Mayor Miyagishima called for the roll on the Motion to Amend on page 115, Item G, to move it to  
42 3D, under responsibilities of both parties and it was Unanimously Approved. 7-0

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Russ Smith said I also want to say that I love having musicians at the market and they are important to the market.

Councillor Small said this seems like a very good test of this multi-sided issue and perhaps it would be nice to look for feedback after we make this positive step today.

Don Kelley, Member of the Public said I am the President of the Farmers and Crafts Market of Las Cruces Corporation. We consider ourselves as a family and a group that is all inclusive. We want to hear from any of the stakeholders with concerns and that includes the musicians and I think the only way we can be successful is by working together as a team.

Mayor Miyagishima asked are you okay with all the amendments that were made today?

Don Kelley said I don't believe the board will have any problems with any of the amendments.

Councillor Smith said I'd like to thank you for being here today and by setting a well tone with the other parties. I do think that street theater is an important component and certainly working with the musicians, artists, actors and performers and bringing that element in is an exciting piece and if we're looking at the international recognition that I've heard mentioned, certainly maintaining the state and national recognition is a piece and in addition to people seeing folks they know and buying their produce and finding unusual things, that is an important component. So, hopefully you all will always see that and continue to keep that in the mix.

Don Kelley said the market is more than just vendors, it is also farmers, musicians, visitors, non-profits, it's our community.

Randy Harris, Member of the Public said I'd like to thank all of you, the market vendors, the City Manager, Council, Staff, and the new organization that is putting all of this together. In the past this was a very contentious issue and from that we did put together the great conversations which then we were able to set the foundation and clarify the issues so now we have a functioning organization.

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Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 13-132 as Amended and it was Unanimously Approved. 7-0

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(7) Resolution No. 13-131: A Resolution Authorizing the City of Las Cruces to Approve the

1 City's Comprehensive Annual Financial Report for the Year Ending June 30, 2012

2  
3 Councillor Sorg Moved to Remove Resolution No. 13-131 from the Table and Councillor Smith  
4 Seconded the motion.

5  
6 -----  
7  
8 Mayor Miyagishima called for the roll on the Motion to Remove Resolution No. 13-131 from the  
9 Table and it was Approved. 6-0 Councillor Small was absent.

10  
11 -----  
12  
13 Ryan Luetkemeyer, Senior Manager with Moss-Adams gave an overhead presentation and said this  
14 is our firm's first year for performing the audit for the City of Las Cruces and it was great  
15 experience. We had weekly contact with staff and they were very transparent with their process.

16  
17 Our audit scope consisted of the City of Las Cruces and the component unit of South Central Solid  
18 Waste, the joint ventures of Metro Narcotics, Mesilla Valley Regional Dispatch Authority, Animal  
19 Services Center of Mesilla Valley, verification of financial statements and federal programs and the  
20 agreed upon procedures of the Safe Traffic Operations Program (STOP).

21  
22 Lupita Martinez, Senior Manager with Moss-Adams continued the overhead presentation and said  
23 the first report is the Independent Auditor's Report, the second auditor's report is over your internal  
24 controls, over financial reporting and compliance, and then the last auditor's report is on compliance  
25 over major programs. In the first report we obtained reasonable assurance that the financial  
26 statements are free of material mis-statement. In the next two opinions, we considered your internal  
27 controls over financial reporting and compliance and in the last report we audit your major programs  
28 to ensure that the City is in compliance with laws and regulations. The five major federal award  
29 programs that we tested were the Brownsfield's Economic Development Grant and Museum of  
30 Nature and Science Loan, the Public Safety Partnership and Community Policing Grants, the Energy  
31 Efficiency and Conservation Block Grant, the High Intensity Drug Trafficking Areas Program and  
32 the Health Centers Cluster.

33  
34 Ryan Luetkemeyer continued the overhead presentation and said we're happy to report that we did  
35 provide an unqualified opinion over your financial statements which is our highest level of assurance  
36 that we can provide for the work we do. There were some findings which were regarding the Internal  
37 Service Fund Allocation; internal controls should be improved to ensure functions and departments  
38 of the City are charged appropriately for services provided from the vehicle maintenance fund; and  
39 regarding the Utility Accounts Receivable, improve the reconciliation process of the detailed  
40 accounts receivable listing to the general ledger to ensure accuracy.

41  
42

1 Lupita Martinez continued the overhead presentation and said regarding Allowable Costs/Cost  
2 Principals-Payroll, ensure that payroll costs charged to the Department of Health and Human Service  
3 grant awards are based on the actual time spent, not on a predetermined allocation based on  
4 estimations.

5  
6 Ryan Luetkemeyer continued the overhead presentation and said regarding Actual Expenditures  
7 Exceeded Budget Expenditures, actual expenditures exceed budgeted amounts in six of the City's  
8 funds; and regarding Information Technology, continual improvement in IT structure required in  
9 order to prevent compromise of the integrity and/or availability of confidential data.

10  
11 Lupita Martinez continued the overhead presentation and said the status of prior year findings are  
12 the findings with the capital assets, contract monitoring, property acquisition, equal employment  
13 opportunity plan, worker's compensation, clothing allowance and mileage reimbursement have been  
14 resolved but the utility accounts receivable, actual expenditures exceeded budget expenditures and  
15 Information Technology are repeated findings.

16  
17 Ryan Luetkemeyer continued the overhead presentation and said the financial highlights are that the  
18 Mesilla Valley Public Housing Authority is transitioning away from the City so those financial  
19 statements are only for the six-month period of July 1 through December 31, 2011 so it is not  
20 considered a component unit of your financial statement. Regarding the City's governmental  
21 activities, there was a positive trend in that the net assets increased by \$11.5 million and the gross  
22 receipts tax, property tax, and franchise fees increased from \$93.6 million in FY11 to \$98.1 million  
23 in FY12. Your expenses for your governmental activities increased from \$110.9 million in FY11 to  
24 \$116.7 million in FY12. Regarding your business type activities, the City's net assets increased  
25 during FY12 by \$2.2 million; the charges from services increased from \$60.1 million in FY11 to  
26 \$62.8 million in FY12; your expenses increased from \$65.2 million in FY11 to \$65.6 in FY12; and  
27 the Water Fund showed a decrease in operating expenses of approximately \$739,000. Regarding  
28 Governmental Funds, the City's governmental funds reported combined ending fund balances of  
29 \$117.3 million which is an increase of \$15.4 million from the prior year. Regarding the General  
30 Fund, the City's General Fund increased by \$3.5 million during FY12 which was primarily due to  
31 an increase in tax revenue combined with prudent controls and fiscal monitoring of expenditures.

32  
33 Lupita Martinez continued the overhead presentation and said regarding the business type activities,  
34 there was a slight decrease in the total assets from \$286 million to \$283 million which was mostly  
35 due to fixed asset depreciation, and some fixed asset disposals that were offset by fixed asset  
36 additions. The liabilities decreased from \$73 million to \$68 million which was due to schedule debt  
37 payments. The net assets went from \$213 million to \$215 million which is due to the increase of  
38 approximately \$2 million in revenues over expenditures.

39  
40 Luke Luetkemeyer continued the overhead presentation and said regarding your unrestricted cash  
41 and vestments, it is hard to give an exact amount because it is all about the timing so general  
42 speaking, your total ending unrestricted cash investment balance is \$103 million which is a very

1 strong and health figure. Regarding your accounts receivable, your receivables are very strong and  
2 consistent with the past. Regarding your long-term debt, there is a continual reduction which is what  
3 we want to see because that means you are following your debt schedules. Ultimately, I think you  
4 are in a very strong, healthy net income, net assets position with a total increase of \$12 million at the  
5 end of FY12.

6  
7 Lupita Martinez continued the overhead presentation and said regarding the business type activities,  
8 the revenues went down to \$68 million and expenditures slightly increased to \$66 million for a  
9 change in net assets of \$2 million. It appears that the decrease in revenue is mostly caused by a  
10 reduction in investment income.

11  
12 Regarding the agreed upon procedures report over the Safe Traffic Operations Program (STOP),  
13 there were no material noncompliance with the requirements but there were some findings which  
14 were for 8 out of 59 violations tested the fine was not paid within 35 days from the effective date and  
15 the correct late fine was not assessed as required by the contract between the City and the service  
16 provider; for 1 out of 4 violations where a hearing was conducted and the fine was paid, the correct  
17 late fine was not assessed as required by the contract between the City and the service provider; and  
18 for 1 out of 4 violations involving a hearing request, there was no supporting documentation for the  
19 hearing request and no evidence that a hearing was held.

20  
21 Councillor Smith said I think what you have provided us with is something that our staff should take  
22 a great deal of pride in and we do still have those findings that need to be addressed and that is  
23 something that we don't take lightly but on the other hand, in looking at the stability and the  
24 trending, those things look like they are heading in positive directions for the most part. I appreciate  
25 the fact that you've basically given us some good feedback and my estimation of it is there are pretty  
26 good marks on how we are handling things.

27  
28 Ryan Luetkemeyer said I just want to mention that we are open all year so if you have any questions  
29 or concerns, please call us.

30  
31 Mark Winson, Assistant City Manager said this has been a transition year for us with a lot of staff  
32 changes in our accounting departments so this was a real trial and a lot of people stepped up to the  
33 plate and I want to applaud and thank everybody for their cooperation and hard work with this audit.

34  
35 Mayor Miyagishima said I want to say congratulations to you and your staff.

36  
37 Councillor Silva said so regarding the repeated findings, those were only with the Utilities  
38 Department?

39  
40 Ryan Luetkemeyer said no, the Information Technology finding was with the City as a whole and  
41 the actual expenditures exceeding the budget impacted six different citywide funds which none were  
42 in the Utilities Department.

Regular Meeting  
April 1, 2013

Page 19

1  
2 Councillor Silva said regarding expenditures exceeding the budget, were there specific departments  
3 identified or was it overall with the general budget?

4  
5 Ryan Luetkemeyer said I didn't write them down but I know one was with the Debt Service Fund  
6 and one was the Vehicle Maintenance Fund which was the largest.

7  
8 Councillor Silva said that's okay, I will just get with the City Manager regarding the rest of my  
9 questions.

10  
11 Victoria Fredrick, Finance Director said we are addressing all the findings so hopefully they will be  
12 taken care of for the next audit.

13  
14  
15  
16 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 13-131 and it was  
17 Unanimously Approved. 7-0

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**DRAFT**  
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18  
19  
20  
21 (9) Resolution No. 13-133: A Resolution Approving the Parks and Recreation Department  
22 2013/2014 Fees and Charges/Facility Use Policy and Repealing Resolution 12-150.

23  
24 Councillor Thomas Moved to Approve Resolution No. 13-133 and Councillor Small Seconded the  
25 motion.

26  
27  
28  
29 Mark Johnston, Parks and Recreation Administrator gave an overhead presentation and said we bring  
30 a new fee schedule before Council every year and staff has continued to solicit input from the public  
31 and revise the policy. The policy covers all operational/business aspects of the Parks and Recreation  
32 Department and some of the new program highlights are that we have expanded scholarship  
33 offerings due to some generous donations from some anonymous donors; formed partnerships with  
34 the Las Cruces Aquatic Club and the Las Cruces Running Club; we've increased summer camps,  
35 sessions and sports 101; and expanded opportunities at a 50% discount for seniors. There are  
36 minimal changes throughout the policy but we did raise our Youth City run Sports Leagues by \$5;  
37 however, if they come back the second year with their shirt then the price goes down by \$5. We're  
38 recommending the deletion of the Medical Aquatic Fee which was the 20% reduction to use the  
39 Aquatic Center. The fee use to be \$5 but it is now \$2 to get in for one hour and the 20% reduction  
40 requires a prescription, it caused HEPA paperwork issues for staff, it caused confusion for some  
41 participants and it only saved 40 cents per visit so we are recommending that it be deleted.

42

1 Councillor Smith said I remember when the aquatic fee schedule was like a book and a little  
2 complicated so I'm glad that's clearing up. Also, I did note the shirt policy, being able to come back  
3 with a lower price the second year, I think that is an innovative touch and overall, I noted that your  
4 prices, for the most part, haven't gone up and where they have gone up, have gone up only  
5 moderately so I commend you all for doing such hard work and keeping it in a manageable place for  
6 most of our users and also for being creative and lowering the prices so I know that is not easy to do  
7 but thank you for your work on that. Overall, I didn't see anything to get concerned about but I know  
8 this is an ongoing struggle to keep your department doing what it does for our community so thank  
9 you for all your hard work on that and thank you to your department.

10  
11 Councillor Sorg asked is there a brochure that outlines all these charges that we can pass-out to the  
12 public either electronically or a paper copy?

13  
14 Mark Johnston said yes, and if the Council approves this fee schedule then it will be put into a PDF  
15 format and we will have it available on our website. We also post our pricing at the Aquatics Center,  
16 at our outdoor facilities and at our other facility sites.

17  
18 Councillor Thomas said on page 5 or 28, it talks about organization aquatic fee and it states that the  
19 organization or agency must be non-profit and show financial need and that members or clients of  
20 the organization or agency must reside in the same building; I didn't understand that.

21  
22 Mark Johnston said essentially it is caregivers and some of our state funded associations will utilize  
23 our services for the reduced fee and we address that in our medical services where the caregiver and  
24 a client can come in for a dollar each.

25  
26 Councillor Thomas said maybe we need to make that a little more clearer.

27  
28 Mark Johnston said we can do that.

29  
30 Councillor Thomas said on page 7 there is some confusion because it states that the deadline is 8:00  
31 a.m. the Monday prior to usage and then it states the deadline is 5:00 p.m. 10 business days prior to  
32 usage; that doesn't make sense.

33  
34 Mark Johnson said it is talking about two different types of reservations but we can clean up that  
35 language.

36  
37 Councillor Thomas said on page 28 there is this thing about camping fees, only allowed in  
38 conjunction with special events and not more than 7 days; there was some discussion at the board  
39 meeting and I'd like to know what came out of that discussion?

40  
41 Mark Johnston said there were some discussions during the tent city days and we were asked to  
42 delete that out of this particular fees policy so it has been removed and now it is a \$5 tent fee and a  
43 \$10 RV fee.

1  
2 Councillor Pedroza asked was the amount of liability insurance increased or did it stay the same?

3  
4 Mark Johnston said it has always been \$1 million but the one thing that has changed is that we not  
5 only require the insurance policy but also an endorsement of the policy.

6  
7 Councillor Pedroza asked how do individuals or groups go about getting scholarships?

8  
9 Mark Johnston said we offer the scholarship program through our afterschool program and we work  
10 with the individual schools. We try to keep the children anonymous so we work with the counselors  
11 to find out which families are the most needed and the children will have to write an essay on why  
12 they want to attend and then the donor will pick the child for the scholarship.

13  
14 Councillor Small said I was pleased to hear your positive focus on outside groups both at the  
15 Aquatics Center and at the Butterfield Range. Would there be some difficulty for you all to track  
16 volunteer hours and direct expenditures because it would be interesting to be able to quantify some  
17 of that; would that be possible?

18  
19 Mark Johnston said that would be a difficult thing to do because my Analyst position is currently  
20 vacant and one of the things they do is collect that information.

21  
22 Councillor Silva said I do think at some point we may want to address the Senior population and  
23 what kind of cost recovery we are going to strive for or at least incorporate into this policy.

24  
25 Mark Johnston said I totally agree with you.

26  
27 -----

28  
29 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 13-133 and it was  
30 Unanimously Approved. 7-0

31  
32 -----

33  
34 **VIII. BOARD APPOINTMENTS**

35  
36 Mayor Miyagishima reappointed Christine Courtney (District 6) and appointed Sandra S. Sigel  
37 (District 5), Dianne Jordan (District 6 At Large) and Fred Cantonwine (Benavidez Center  
38 Representative) to the Senior Programs Advisory Board.

39  
40 -----

41  
42 Councillor Small Moved to Approve Mayor Miyagishima's reappointment of Christine Courtney  
43 (District 6) and appointments of Sandra S. Sigel (District 5), Dianne Jordan (District 6 At Large) and

1 Fred Cantonwine (Benavidez Center Representative) to the Senior Programs Advisory Board and  
2 Councillor Silva Seconded the motion.

3  
4  
5

6 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's  
7 reappointment of Christine Courtney (District 6) and appointments of Sandra S. Sigel (District 5),  
8 Dianne Jordan (District 6 At Large) and Fred Cantonwine (Benavidez Center Representative) to the  
9 Senior Programs Advisory Board and it was Unanimously Approved. 7-0

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12

13 Mayor Miyagishima appointed Alesia Dutton (District 2) to the Fourth of July Committee.

14  
15  
16

17 Councillor Small Moved to Approve Mayor Miyagishima's board appointment of Alesia Dutton  
18 (District 2) to the Fourth of July Committee and Councillor Smith Seconded the motion.

19  
20  
21

22 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board  
23 appointment of Alesia Dutton (District 2) to the Fourth of July Committee and it was Unanimously  
24 Approved. 7-0

25  
26  
27

28 **IX. NOTICE OF PROPOSED ORDINANCE(S) ----- 1.) *There will be no public discussion.*  
29 *2.) A councillor may ask staff for clarification on the proposed ordinance(s).***

30

31 (10) Council Bill No. 13-026; Ordinance No. 2681: An Ordinance to Amend the Municipal  
32 Code, Article V, Section 38-49.2 South Mesquite Neighborhood Overlay Zone District to  
33 Enact Text Changes Which Clarify Existing Provisions, Standards, Procedures, Purposes and  
34 Intent of the Overlay District and Which are Non-Substantive in Nature. Submitted by the  
35 Community Development Department, Case ZCA-12-01.

36

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

38  
39  
40

41 **X. CITY COUNCIL MEMBER BOARD REPORTS**

42

1 Councillor Smith gave an overhead presentation regarding his trip to Washington, D.C. He attended  
2 the 6<sup>th</sup> Annual Transportation & Infrastructure Convention and the National League of Cities  
3 Congressional City Conference.

4  
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7 **XI. GENERAL DISCUSSION**

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9  
10

a.) Mayor

11 Mayor Miyagishima passed.

12  
13  
14

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15 b.) City Council

16  
17

18 Councillor Thomas passed out a handout and said there are two events coming up which one is the  
19 J. Paul Taylor Symposium that will take place this Friday and Saturday and the other one is Ready  
20 to Run which is to encourage women to run for office and that is taking place on the 12<sup>th</sup> and 13<sup>th</sup> in  
21 Anthony.

22  
23

-----

24 Councillor Sorg passed.

25  
26  
27

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28 Councillor Small passed out a handout and said this is a one page synopsis and it is meant to be an  
29 initial idea with regards to having an Economic Development Fund that is separate and in addition  
30 to our partnership in the Mesilla Valley Economic Development Alliance. I do think we need to do  
31 something about this issue during our next budget cycle.

32  
33

34 Mayor Miyagishima said this is something that I think we should discuss during a work session.

35  
36

37 Robert Garza, City Manager said we can put this item as part of our April 15<sup>th</sup> Budget Work Session.

38 Councillor Small said I'd like to say thanks for the chip-seal that was done at the Butterfield  
39 Shooting Range.

40  
41

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42 Councillor Pedroza said there needs to be some kind of research done about the types of jobs that  
43 might be doable in the future because jobs are created in periods and once that period is over then

1 those jobs are over. We might want to see about reducing the number of hours and increasing wages  
2 because I suspect that in the future there are going to be fewer and fewer jobs.

3  
4 I'd like to thank the Mayor because last year he gave me the proclamation that was signed by  
5 President Obama naming March 31, 2012 as Cesar Chavez Day. I haven't had the time to have it  
6 framed but it is a beautiful proclamation. On April 6<sup>th</sup> at noon, the people who were here are going  
7 to have a rally at Apodaca Park and the Mayor has asked me to speak about Cesar Chavez so I will  
8 be doing that at that event.

9  
10 Also, April 6<sup>th</sup> is the Arbor Day event from 9:00 a.m. to noon at the Branigan Culture Center.

11  
12 The South Central Solid Waste Authority has hired a private firm to do community meetings  
13 regarding recycling and so on and engaging the community. I have the dates so if anyone is interested  
14 they can contact me for that information.

15  
16 There is another issue that we need to be aware of and possibly give our support to and that the  
17 County Commission is going to be discussing a flow control ordinance which is an ordinance that  
18 directs where solid waste may be disposed of in the county.

19  
20  
21  
22 Councillor Smith said I do want to point out that the work session being scheduled for the 15<sup>th</sup> comes  
23 after the Governor will have signed or may not sign the Hold Harmless so I think that will allow us  
24 to have a better sense of what we are trying to accomplish then.

25  
26 I also want to comment on the fact that it was great to see our city parks being used yesterday. I only  
27 saw the one across from my house and there were hundreds of people there. I'd like to say that they  
28 picked up well after themselves and some of them did, but in the past I have seen people being really  
29 irresponsible about picking up so I suspect that City staff is very busy getting that cleaned up. It was  
30 really good seeing our parks being used and I think that is something that people really do appreciate  
31 about our community.

32  
33 I also want to comment on the fact that there are now signs at both ends of the work that is being  
34 done on Alameda. I think that is helpful and I'm hoping that in the future we'll be able to do even  
35 more so that when people are in business and doing what we ask them to do as far as being in Las  
36 Cruces and in using this location as their place of business that we can do all that we can when we  
37 put them through improvements on the road. So I'm pleased to see those signs there.

38  
39 Also, this week, toward Friday, I believe the lanes are supposed to be open on all parts of the I-10,  
40 I-25 exchange and they're supposed to be doing a ribbon cutting on the 23<sup>rd</sup>; however, some of us  
41 will be on our way to Washington, D.C. at that point so if someone is staying here in town I would  
42 greatly appreciate them being able to go to that event on behalf of the City.

Regular Meeting  
April 1, 2013

Page 25

1 Thanks to the Parkinson Group for the lovely tulip and I look forward to taking it home to my wife  
2 so I will be sure to share it with her.

3  
4 -----  
5  
6 Councillor Silva said I would be supportive of Councillor Small's suggestion and I think we could  
7 fund this by reducing the funding to MVEDA.

8  
9 April 18<sup>th</sup> thru April 24<sup>th</sup> is the Border Book Festival here in Las Cruces and you can get all the  
10 information by visiting their website.

11  
12 At the end of this month I'm going to Washington, D.C. mainly because we have a new Senator and  
13 I would like to welcome him to the Senate. I would like to suggest that maybe it would be useful to  
14 write a letter to our delegation in regards to some of our community needs that we are addressing or  
15 that needs to be addressed.

16  
17 Robert Garza, City Manager said we have our Cornerstone group putting together a similar booklet.  
18 They will be putting together a draft for us next week and we will be sharing that with staff and  
19 Council.

20  
21 Councillor Silva said the Mayor of Deming suggested that we join efforts in putting together a  
22 regional film consortium so I would suggest that we invite him to a work shop and discuss that idea.

23  
24 I recently met our new Risk Manager Carl Long, I believe that is his name, and I think it would be  
25 good for us to bring him forward at some point so we can all meet him.

26  
27 I spoke with some of my constituents and area neighbors regarding the fire truck on Mesquite Street  
28 and they would just like to restore it and have it remain in place. I believe there is going to be a  
29 fundraiser in May to potentially raise funds to restore the fire truck. There have also been other  
30 suggestions like putting a fence around it or put a sign up stating it may be a hazardous area. Mr.  
31 Long is trying to be creative in coming up with some ideas on how we can restore it and leave it in  
32 the park. I would like to see Mr. Long bring forward some type of report on this and I think we need  
33 to keep the communication open regarding this issue.

34  
35 Mayor Miyagishima said if we are going to have staff take a look at that then we'd need to hear a  
36 presentation and see if Council wants to direct staff to see what it would take to renovate the truck.

37  
38 -----  
39  
40 Councillor Sorg said I just want to mention that our Airport Advisory Committee is having renewed  
41 talks regarding commercial airline service to our airport.

42

1 -----  
2  
3 c.) City Manager  
4  
5 Robert Garza, City Manager said we have a TIDD Board Meeting next Monday before our work  
6 session and we will be discussing the approval of a TIDD budget and identifying some projects.  
7  
8 Starting tomorrow we are going to be doing some major improvements on our parking deck with  
9 the solar project so parking for this facility will be challenging for the next two months.  
10  
11 -----  
12  
13 **Meeting Adjourned at 5:15 p.m.**

DRAFT