

DRAFT

Item #1
Regular Meeting
August 19, 2013



City Council
of the
City of Las Cruces

Regular Meeting

August 19, 2013
1:00 P.M.

Council Chambers, City Hall

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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 **Via Telephone**
- Councillor Sharon Thomas, District 6

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

I. OPENING CEREMONIES

Mayor Miyagishima called the meeting to order and asked for a moment of silence. Councillor Small 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.

Mayor Miyagishima and Dolores Archuleta, Mayor Pro-tem Emeritus recognized WWII and Korean Veteran Major William Stacey.

Councillor Small presented a Proclamation to the Fairacres All Stars Little League Team and declared August 7, 2013 as Fairacres Little League All Stars Day.

Councillor Small presented a Proclamation to Alfred Gutierrez and declared August 19, 2013 as Paint the Town Purple Day.

1 Councillor Silva Moved to Allow Councillor Sorg to attend the meeting via telephone and
2 Councillor Smith Seconded the motion.

3

4

5

6 Mayor Miyagishima called for the roll on the Motion to Allow Councillor Sorg to attend the meeting
7 via telephone and it was Approved. 6-0 Councillor Sorg was absent.

8

9

10

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

15

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

17

18 Councillor Smith said I spoke with one of the folks who are involved in the zone change prior to that
19 going before the Planning and Zoning Commission about a building on that property. There is no
20 monetary or other benefit involved but having had that prior conversation I want to be sure that is
21 not considered a conflict of interest.

22

23 Mayor Miyagishima asked do you feel you can listen to the information in an unbiased manner?

24

25 Councillor Smith said I do.

26

27 Mayor Miyagishima said then I don't see any conflict of interest.

28

29 Robert Garza, City Manager said as I have done in the past, I want to disclose that I serve on the
30 Board of Directors, Board of Trustees for Memorial Medical Center. I'm not a voting member of this
31 Council but I just felt it was proper for this disclosure to go on the record.

32

33

34

35 **III. PUBLIC PARTICIPATION**

36

37 Mayor Miyagishima said I had asked Mr. Paul Herzock and Denton Park if they would like to come
38 to today's meeting to speak, which you are still welcome to speak but I just want to clarify that I did
39 not order you here to speak so it is up to you whether you want to speak or not.

40

41 Also, I was going to allow Connie Potter to speak at this meeting by telephone; however, after
42 speaking with our attorney I discovered that the City does not have a resolution in place that allows

1 members of the public to speak at the meeting by telephone so I have already informed her that she
2 will not be allowed to speak at this meeting by telephone.

3

4 Larry Tucker, Member of the Public said I would like to ask that you look into the condition of your
5 ramps for people in regular wheelchairs because my wheelchair was damaged due to one of your
6 ramps being too steep and I feel they are unsafe not only for people in wheelchairs but also people
7 walking on them.

8

9 Mayor Miyagishima said you can leave your information with Ms. Pierce and if your wheelchair was
10 damaged due to the City's negligence then you can file a claim with our Risk Department.

11

12 Jane Jonas, Member of the Public said my husband removes dead trees and I would like to see if
13 there is a way for him to remove dead trees and put up a fence at Apodaca Park.

14

15 Mayor Miyagishima said if you are volunteering to do it for free then you can leave your contact
16 information with the Clerk.

17

18

19

DRAFT

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

23

24 Councillor Smith Moved to Approve the Agenda and Councillor Thomas Seconded the motion.

25

26

27

28 Mayor Miyagishima called for the roll on the Motion to Approve the Agenda and it was Approved.
29 6-0 Councillor Small was absent.

30

31

32

33 **V. CITY COUNCIL MINUTES**

34

35 *(1) Regular Meeting of August 5, 2013

36

37

38

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

40

41 *(2) Resolution No. 14-027: A Resolution Approving the Expansion of the Licensed Premises
42 for State Liquor License Number 0190 Issued to Las Cruces Hotel Management Corporation

- 1 D/B/A Hotel Encanto de Las Cruces Located at 705 South Telshor Boulevard, Las Cruces,
2 New Mexico.
3
- 4 *(3) Resolution No. 14-028: A Resolution Accepting a Grant From the Community Foundation
5 of Southern New Mexico in the Amount of \$1,000.00 for Expenses Related to the “From the
6 Ground Up XXVI” Exhibit Hosted by the City’s Museum of Art and to Adjust the City’s
7 Adopted FY 2014 Budget.
8
- 9 *(4) Resolution No. 14-029: A Resolution Accepting a Grant From the New Mexico Department
10 of Cultural Affairs, New Mexico Arts Program in the Amount of \$6,456.00 With a \$1,614.00
11 Required Cash Match for Expenses Related to the “From the Ground Up XXVI” Exhibit
12 Hosted by the City’s Museum of Art and to Adjust the City’s Adopted FY 2014 Budget.
13
- 14 *(5) Resolution No. 14-030: A Resolution Approving and Accepting a Grant Agreement Only
15 Between the City and the Gilder Lehrman Institute in the Amount of \$1,200.00 for FY 2016
16 for Programming Expenses Related to the “Created Equal: America’s Civil Rights Struggle”
17 Film Series Hosted by the City’s Branigan Cultural Center Pending Incorporation of the
18 Grant Funds as Part of the City’s FY 2015-2016 Budget Adoption Process. The Resolution
19 Ratifies the City Manager’s Signature on the Grant Agreement.
20
- 21 *(6) Resolution No. 14-031: A Resolution Authorizing the City of Las Cruces to Accept Grant
22 Funding From the National Endowment for the Humanities in the Amount of \$750.00 for
23 Programming Expenses Related to the Branigan Cultural Center’s “Lincoln: The
24 Constitution and the Civil War” Exhibit and to Adjust the City’s Adopted FY 2014 Budget.
25
- 26 *(7) Resolution No. 14-032: A Resolution Authorizing the City of Las Cruces to Approve a
27 Memorandum of Understanding Between the Federal Bureau of Investigation and the Las
28 Cruces Police Department to Fund Overtime Expenses Up to the Amount of \$86,011.25 for
29 the FY 2014 Safe Streets Violent Gang Task Force, to Ratify the City Manager’s Signature
30 on the Memorandum of Understanding, and to Adjust the FY 2014 Budget.
31
- 32 *(8) Resolution No. 14-033: A Resolution Approving the Adjustment of the FY14 Budget to Add
33 Budget for Las Cruces Municipal Peer to Peer Foundation (LCMPPF), Previously Known
34 as the Employee Benefit Committee.
35
- 36 *(9) Resolution No. 14-034: A Resolution Approving a Land Lease of the City-Owned Parcel
37 44A at the Las Cruces International Airport to Raci Management Co., Inc., for a Term of
38 Thirty Years at an Initial Rent of \$2,640.00 Per Year.
39
- 40 *(10) Council Bill No. 14-005; Ordinance No. 2690: An Ordinance Conditionally Approving a
41 Zone Change for a 1.84 Acre Parcel 02-31716 From R-1A (Single-Family Medium Density
42 Residential) and C-2 (Medium Intensity Commercial) to O-2C (Professional Office-Limited

1 Retail Service, Conditional), Located at 106 E. Manso Avenue (Case No. Z2861). Submitted
2 by the Property Owner, the Mesilla Park Baptist Church.

3
4 -----

5
6 **VII. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION**

7
8 (11) Council Bill No. 14-003; Ordinance No. 2688: An Ordinance Amending Article II.
9 Standards for Public Rights-Of-Way, Section 32-36 of Chapter 32 of the Las Cruces
10 Municipal Code, as Amended.

11
12 Councillor Thomas Moved to Approve Council Bill No. 14-003; Ordinance No. 2688 and Councillor
13 Sorg Seconded the motion.

14
15 -----

16
17 Brian Denmark, Assistant City Manager said if Council recalls, a decision was made not to
18 implement road and drainage impact fees and Council gave direction to staff for amendments to the
19 Design Standards to not only address a short-term solution but also a long-term fix for the concerns
20 that Council had as it relates to infrastructure associated with proposed development. Staff has taken
21 a look at that and today we will be presenting a proposed amendment to the Design Standards to
22 address only a short-term solution. I just want to mention that there is no time-line as it relates to this
23 amendment and we might receive some public input today stating that there has not been enough
24 time given to look at this amendment which is true. We are bringing forward an amendment that has
25 had very little public input so if Council wishes to postpone this in order to give more time for public
26 input then that would be completely acceptable by staff.

27
28 Robert Kyle, Building and Development Services Administrator gave an overhead presentation and
29 said the details of this amendment are to facilitate infrastructure construction at the earliest point in
30 development in order to eliminate incomplete infrastructure to and within developments; the current
31 provisions require the developer to construct 100% of the roadways within the development
32 boundaries and 50% of major thoroughfares adjacent to the development; access to the development
33 must be from a minimum of an improved minor local roadway from the subdivision boundary to the
34 nearest paved public roadway. The amended language would require 100% of the infrastructure
35 within the complete development boundary as well as any necessary access roadways to be built to
36 full standard at the onset of the development. The amendment also requires an upgrade or provision
37 of infrastructure for building projects with the exemption of one or two family residential projects.
38 Deviations from this are to be addressed by a Development Agreement that is approved by City
39 Council. The pros and cons of this amendment is that the use of Development Agreements allow
40 for significant flexibility for applicants as well as City Council for negotiations but this will increase
41 administrative involvement time for tracking agreements and there is also a potential increase in time
42 for the development process.

43

1 Councillor Thomas said the major changes were that you added the word “developer” as well as
2 “subdivider” and where we had 50% you changed to 100%. I didn’t understand the part about the
3 one or two family homes exemption so can you please go over that again?
4

5 Robert Kyle pointed to a property on a slide and said lets say that there is a parcel of land that is
6 zoned for a single family home, under today’s requirements if I came in to pull a building permit the
7 City could require that I dedicate the necessary right-of-way to comply with the MPO Plan for that
8 portion of Sonoma Ranch Boulevard; but with the amendment, without that exemption, that building
9 permit would also require that I build that section of Sonoma Ranch Boulevard and that didn’t
10 necessarily seem reasonable to make a single family home build several hundred feet of a major
11 arterial roadway in order to build that single house. So, that’s why we put the exemption in for one
12 or two family dwellings and also included the Development Agreements in order to give Council the
13 ability to decide if these are appropriate requirements or there should be an exemption.
14

15 Mayor Miyagishima said maybe we should have a work session on this item; only if we aren’t on
16 a time-line for this issue.
17

18 Robert Kyle said there is no time-line for this item.
19

20 Brian Denmark said if Council is more comfortable with postponing this item then staff is in support
21 of that and having a work session would be a great idea.
22

23 Councillor Smith asked what would be a reasonable amount of time for us getting to a final version
24 of this?
25

26 Robert Kyle said staff is working on getting those Roadway Standards and we were hoping to have
27 them ready for public review at the end of the year or the beginning of next year.
28

29 Councillor Smith asked how much input have we had from developers and builders for this piece
30 of the interim?
31

32 Robert Kyle said on this particular proposed amendment, we finished the draft about a week before
33 it was due and sent it out to numerous homebuilders and some other folks in the development
34 community and that has been it. We’ve had one meeting with a few of them, including the Home
35 Builders Association, just to discuss it. So, given the time-frame there hasn’t been much of any
36 opportunity to have a meaningful dialog with the stakeholders.
37

38 Councillor Smith said I do think it is important to have input so I would be in favor of postponing
39 this item.
40

41 Councillor Small said there is room for discussion on this so tabling this today would be acceptable.
42

Regular Meeting
August 19, 2013

Page 7

1 Councillor Pedroza said I have received comments from some of the developers that have raised
2 questions which I would like to see addressed at a work session. Is public input allowed in a work
3 session?

4

5 Mayor Miyagishima said yes, we can have public input at work sessions.

6

7 Councillor Pedroza said then I would be in favor of having a work session on this item.

8

9 Councillor Silva said I would also be in favor of postponing this item and I would also like to see
10 more effort be put forth to work with the stakeholders prior to the work session.

11

12 Councillor Thomas said we adopted a Complete Streets Guidance Principals Resolution in 2009 and
13 the ones shown in this packet do not look like complete streets so hopefully we can discuss that in
14 the work session as well.

15

16 Councillor Sorg said I agree with having a work session to discuss this item.

17

18 Robert Garza, City Manager said we can have a work session either on September 23rd or October
19 28th. I would recommend that you just vote no or table this item indefinitely, then we can have a
20 work session to discuss it and come back with a new proposal.

21

22 Steve Chavira, Member of the Public said I am with the Home Builders Association and it is
23 important that we work together on this so we would agree with having further discussions on it with
24 all the stakeholders.

25

26 Mayor Miyagishima said I think in the event that we do table this that may be later on down the road
27 we can have an ordinance that would include a combination of impact fees and/or complete streets.

28

29

30

31 Councillor Smith Moved to Table Council Bill No. 14-003; Ordinance No. 2688 Indefinitely and
32 Councillor Pedroza Seconded the motion.

33

34

35

36 Mayor Miyagishima called for the roll on the Motion to Table Council Bill No. 14-003; Ordinance
37 No. 2688 Indefinitely and it was Approved. 5-1 Councillor Smith, Councillor Pedroza, Councillor
38 Small, Councillor Thomas and Mayor Miyagishima voted Aye. Councillor Silva voted Nay.
39 Councillor Sorg was absent.

40

41

42

1 (12) Council Bill No. 14-004; Ordinance No. 2689: An Ordinance Conditionally Approving a
 2 Zone Change for a 30.75 Acre Portion of Parcel 02-03647 From R-1A (Single-Family
 3 Medium Density Residential) to C-3C (Limited High Intensity Commercial, Conditional) for
 4 23.44 Acres and to R-4C (Limited Multi-Family High Density Residential, Conditional) for
 5 7.31 Acres, Located at 2700 N. Main Street (Case No. Z2860). Submitted by the Park Ridge
 6 Properties LLLP on Behalf of the Property Owner, the Las Cruces Country Club Inc.

7
 8 Councillor Thomas Moved to Approve Council Bill No. 14-004; Ordinance No. 2689 and Councillor
 9 Small Seconded the motion.

10

11

12

13 Harry (Pete) Connelly, City Attorney said the Community Development Department and myself have
 14 put together the perimeters of review for considering a land use matter on zoning and rezoning.
 15 Those matter consist of looking at the property with an eye towards promoting the health, safety and
 16 general welfare and make sure that the land use is appropriate for that section. Those are the areas
 17 that you can consider and anything concerning the reputation of the persons involved, the particular
 18 business program or plan, or how it plans to be done, like financing; are not in the perimeters of land
 19 use. The people addressing the area of the proposed zone should also limit their objections or
 20 proponents or whatever, to the same programs so that everyone is on the same page.

21

22 Councillor Pedroza asked can there be questions regarding the legality of the proposed hospital?

23

24 Harry (Pete) Connelly said that would not be an appropriate item to discuss because that is not within
 25 the land use matters of this item.

26

27 Councillor Pedroza said I think at some point we will need to know whether in fact the proposed
 28 hospital is prohibited and I know the heli-pad is not a question for today's meeting either.

29

30 Harry (Pete) Connelly said that is incorrect. You are being asked to zone property for a hospital and
 31 related facilities so a heli-pad can be used with a special use permit to be obtained. Also for the
 32 multi-use family residential and something to do with a rehab facilitation.

33

34 Councillor Smith asked can you clarify the battershell conditions regarding how we approach this
 35 quasi-judicial situation?

36

37 Harry (Pete) Connelly said the battershell requires that there be a full hearing, that most everyone
 38 or everyone that would like to speak can speak, that everyone be treated fairly, and that you make
 39 your decision based upon what has been presented to you that is relevant.

40

41 Councillor Smith said regarding emails that we have received and that sort of thing, that's why those
 42 have to be part of the record and those are available if anyone asks about them; correct?

1
2 Harry (Pete) Connelly said the emails that have been received have been forwarded to the
3 Community Development Department and are part of the public record. However, not everything
4 in an email is considered relevant.

5
6 Councillor Small said I find it a bit difficult to talk all about the hospital which is the root of what
7 we are discussing today, and not consider if there are things connected that can severely limit its
8 viability.

9
10 Susana Montana, Planner gave an overhead presentation and said this is a request for approximately
11 30-acres of land from R-1A to 23.44 acres which will allow a hospital and medical offices, to C-3C
12 and 7.31 acres to R-4C which will allow a residential rehabilitation/assisted living facility within the
13 110-acre vacant Las Cruces Country Club property. The developer has proposed that in the C-3C
14 zone there would be a 40-foot landscaped buffer along the Camino Del Rex townhomes rear property
15 lines instead of a typical 25 foot landscaped buffer; in both the C-3C and R-4C zones, the buildings
16 closest to the Camino del Rex townhomes would be limited to two stories in height rather than the
17 typical allowable 60-foot height; and in the C-3C zone adjacent to the townhomes, the buildings
18 would be set back 80 feet from the townhomes' rear property lines instead of the typical 25-foot
19 buffer zone/setback. I want to mention that if this zoning was approved then the remaining 80 acres
20 of this property would remain R-1 A. This project would provide a hospital which would provide an
21 emergency room that would serve the central of the City. This site is well-served by roads and transit
22 and it is near existing C-3 commercial centers.

23
24 The Planning and Zoning Commission recommended three conditions of approval that would
25 mitigate potentially adverse impacts on this development. The three conditions are that the C-3C
26 and R-4C zoning allowable uses shall be limited to those listed on the draft ordinance; a Traffic
27 Impact Analysis shall be submitted within the first building permit or subdivision application for
28 land within the rezoning area and shall be approved by the City's Traffic Engineer; and prior to
29 issuance of a Certificate of Occupancy for the first building with the rezoning area, the developer
30 shall provide a second road access meeting the specifications of the 2009 International Fire Code and
31 approved by the City's Fire Marshal and Traffic Engineer.

32
33 The City Council Decision Criteria for the purpose of the 2001 Zoning Code is to promote the
34 health, safety and general welfare; to ensure that the land use is appropriate for this location; to
35 mitigate congestion in the streets and prevent overcrowding of land; to encourage development of
36 vacant properties within established areas; to ensure that the land use proposals are sensitive to the
37 character of the existing neighborhoods; to conserve the value of buildings and land; to reduce noise,
38 glare and odor; to mitigate conflicts among neighbors; changed neighborhood or community
39 conditions justify the change; and a different use category is more advantageous to the community
40 per the policies of the Comprehensive Plan and the Infill Overlay District.

41

1 Bob Pofahl, Applicant gave an overhead presentation and said I am one of the partners of Park Ridge
2 Properties, LLC and this is a substantial investment so there is no way any of our investors would
3 invest in anything but a legal transaction. This is only for the zone change of the 30 acres and once
4 it is approved then we would be preparing the detailed subdivision maps. The area we are proposing
5 for the assisted living rehab center and sports fitness center is the anchor of this project which would
6 be served by a small 42 bed hospital. We have held extensive meetings with the community over the
7 past nine to ten months which included six community meetings at the Home Builders Association.
8 Some of the things that were brought up at these meetings were concerning Apodaca Park, traffic,
9 and drainage and we responded to all of these concerns so we think we have the favor of about 90%
10 to 95% of the area residents. We have also had numerous meetings with City staff and with the MPO
11 Committee. We have received 833 signed petitions in support of this project and we have tried to
12 make ourselves overly transparent during this process. I want to mention that we would also have
13 about 1.3 acres of this property that would be for open space; there would be about 15% of landscape
14 and an open area on each parcel, as well as landscape medians and additional landscape space that
15 would be part of the whole concept. We have proposed to install a sewer line and we would pay the
16 cost for decommissioning and taking out the current septic tanks.

17
18 Councillor Silva asked is there a second entrance?

19
20 Bob Pofahl said yes, it is on Camino Del Rex.

21
22 Robert Caldwell, Co-Applicant continued the overhead presentation and said I am the President of
23 the Country Club Board of Directors. It is important that we change the zoning of this property so
24 that the Las Cruces Country Club can move forward and maximize the potential of this property. The
25 Las Cruces Country Club has a long standing partnership with all sorts of non-profits; everyone
26 within this community. The Las Cruces Country Club planned to move to a new facility in 2004 and
27 we have been carrying debt that if it was not paid it could have meant foreclosure. The Las Cruces
28 Country Club weighted its options and voted to liquidate its assets. We were able to payoff our debt
29 with the sale of our Water Rights. We have accepted this proposal from Park Ridge to purchase our
30 land and we feel that their proposal would be a continuation of our involvement with our community.

31
32 Annette Angel, Member of the Public showed a video.

33
34 Denton Park, CEO of Mountain View Regional Medical Center said across the country healthcare
35 admissions are declining; from 2007 to 2010 there has been a decline of about 6% on admissions of
36 individuals 65 years and older who use medicare. We are continuing to see declination in our
37 facilities which some of it has to do with people being able to get healthcare in other settings besides
38 the inpatient setting so there is not a demonstrational need for hospital beds in our community. At
39 any given time we have about 50% of our beds available, as does Memorial Medical Center; and we
40 between the two of us we are able to fill about 91% of the admissions for our community. The
41 remaining percentage of people who receive healthcare elsewhere and needing services like level one
42 trauma services, speciality pediatric care and behavior healthcare. I would love to hear from the

1 proposed hospital owner how their proposed hospital will affect those services because I don't
2 believe they will be affected at all and those are the areas that this community needs today. I want
3 to make it clear that we are not opposed to growth but to make this proposed development contingent
4 upon another hospital that is not needed in our community is somewhat puzzling.

5

6 Eva Booker, Member of the Public gave an overhead presentation and said I am with the Country
7 Club Neighborhood Association. The Country Club Neighborhood Association was formed in 2006
8 when the Country Club decided to put their property up for sale and initially we wanted the property
9 to remain as green-space however the City has made it clear that will not happen. We are in favor
10 of having this property used for development and we voted unanimously in favor of the sustainable
11 development of the Country Club property that is safe and consistent with the neighborhood's
12 character. Our concerns are that the Zoning Code is not being followed because it requires a PUD
13 for this entire site; the 30 acre zoning application that was submitted is incomplete; the C-3 and R-4
14 zoning is too high for this site; there are concerns regarding the investors, owners and developers and
15 with the impact on Apodaca Park. The original 110-acre PUD Concept Plan was filed on March 4,
16 2013 which the City raised numerous concerns with it and the City staff stated they could not support
17 that application as it was currently proposed.

18

19 The traffic issues we have include the need for a second entrance/exit; driving lanes and sidewalks
20 are too narrow; the bike lanes are insufficient; there are no vehicle, bicycle or pedestrian circulation
21 plans; there is no traffic mitigation plan to keep non-residents off the Country Club minor residential
22 streets; and it doesn't address the cost of the improvements to the entrance on Highway 70/North
23 Main. Also, we feel that the C-3 and R-4 zoning is too high of density for this area because all the
24 property east of this proposed development is zoned R-1A; south and southwest of this property is
25 zoned R-1A, C-1 and C-2 zoning; the properties along Main Street north of this property are zoned
26 C-2 and C-3; and the C-2 zoning would be sufficient for the one story hospital that the developer
27 stated they intent to build. The impact this will have on Apodaca Park is a concern because the initial
28 plan was for the relocation of the entire park; there were no notices given to the Country Club
29 Neighborhood Association for public meetings regarding the exchange of park land for Park Ridge
30 Boulevard.

31

32 The Country Club Neighborhood Association had to file a FOIA request to find about the proposed
33 exchange of 2.062 acres of Apodaca Park for 7.2 acres of retention area; and the City has taken no
34 action to meet the National Park Service requirements for conversation. We feel the facts of this
35 proposal is what needs to be looked at and not the marketing statements made from those who stand
36 to make millions of dollars off of this project. We ask that you vote to reverse the Planning and
37 Zoning recommendation and require that the entire 110-acre site be considered as a PUD or vote to
38 table it until all requirements of the Zoning Code have been met.

39

40 Mayor Miyagishima said it is my understanding that if the hospital is not built within two years then
41 the property reverts back to its original zoning. I would like to have staff address your comment
42 regarding the incomplete zoning application.

43

- 1 Susana Montana said the request for the rezoning is simply for the land uses only. We don't have
2 any site plans because those are not required with a rezoning application.
3
- 4 Robert Kyle, Building and Development Services Administrator said regarding the application, it
5 is very common that all we will get is the application, the proposed land use and a legal description
6 of the property. Also, if any of the proposed uses under the zone change are developed within the
7 two year period then the conditions have been met; they don't have to have all of the components
8 in order to vest the property.
9
- 10 Councillor Smith said you mentioned some concerns regarding a second entrance and I am assuming
11 that seeing the second entrance shown east of the townhomes; is that not sufficient because it opens
12 to Camino Del Rex?
13
- 14 Eva Booker said the primary entrance is on Camino Del Rex and North Main so the other street away
15 from that is a residential street and we wouldn't want to see that used as a secondary entrance.
16
- 17 Councillor Smith said you were saying that it didn't have a second entrance; is that based on the
18 qualification? In other words, we are saying that it needs two entrances; this second entrance as it
19 is shown to us today is sufficient for that purpose?
20
- 21 Susana Montana said the rezoning does not include the Traffic Impact Analysis but it is required by
22 any application from the property owner. That will tell us whether or not this is to be a second access
23 and if it is adequate to serve the project and then it would be approved by the City's Traffic Engineer
24 and the Fire Marshal. The designs shown today are not part of the rezoning so if this is approved and
25 when we get a TIA (Traffic Impact Analysis) then we will determine if that is to be a second access
26 or should there be another one.
27
- 28 Councillor Smith said another concern Ms Booker had was regarding the National Park service
29 conditions regarding what had been done; does that enter into our considerations today?
30
- 31 Susana Montana said that is not part of this project but if the Traffic Impact Analysis included that
32 as an alternative second access then that would be addressed as part of the site plan. However, that
33 is not part of today's discussion.
34
- 35 Councillor Thomas said Ms. Booker stated that we are not following our own zoning process but I
36 see the zoning and the PUD as two separate things. So, I don't see how you see the zoning
37 application for 30-acres being tied to the PUD.
38
- 39 Eva Booker said I am just quoting the Zoning Code that appears on your website.
40
- 41 Robert Kyle said the PUD process provides more flexibility in land use development so initially the
42 applicants were seeking to have that flexibility so they did submit a PUD in order to be able to look

1 at the entire acreage. So, that is why they initially submitted a PUD application. We do have several
2 applications occurring on the property simultaneously; the initial PUD application did go through
3 staff review and there were a significant amount of issues that were brought up. As such, the
4 applicant met with staff to discuss how they could proceed with the medical campus aspect of their
5 project and hopefully keep it on a faster approval process so staff advised them of their options. The
6 applicant then decided to also submit an application for the rezoning of the 30-acres so they have a
7 PUD application that is still being looked at and a zoning application for the 30-acres which is before
8 you today.

9

10 Michael L. Hayes, Member of the Public said I am a resident of Las Cruces and even though I do not
11 live near this site I want to say that I do not oppose development. In fact, I favor mixed residential
12 and commercial development. The City should do, due diligence in establishing criteria for
13 developing this site and analyze and evaluate any development proposal from a planning as well as
14 a zoning perspective in order to ensure the maximum benefit to both the private and public sectors.
15 I don't think the City should approve this proposal at this time because it gives away a valuable asset
16 on the basis of promises and assurances by local sales agents. My concern is that much of this
17 proceeding is confused because I have a document from staff stating this is a legislative matter but
18 I'm prepared to accept that it is quasi-judicial. The developer has met frequently with staff but staff
19 has not made itself available to the citizens concerned and certainly hasn't involved the public.
20 Therefore, there have been constants put on public input from a variety of perspectives so I do think
21 that as a result what you should be doing is voting for option four which is to postpone this item.

22

23 Peter Goodman, Member of the Public said I am a bystander without strong feelings on this and I
24 have two observations; the first is that your attitude toward developers ought to be neutral and you
25 should review all development proposals. My second comment is that the Zoning Code, Section 38-
26 49, states that the PUD process shall be required for those proposed developments that are to be
27 subdivided and multi-phased which as I understand it this development is going to be multi-phased
28 so it is mandatory that they go through the PUD process.

29

30 Harry (Pete) Connelly said a zoning request is a self item and I see no questions here about it being
31 a separate matter. There is only 30-acres before us here and no PUD so what is before you is a
32 zoning request; that is it.

33

34 Sharon White, Member of the Public said I am both a homeowner and a business owner in the
35 Country Club area. The Country Club Association is not voicing their opinion for me. I did send all
36 of you an overview of what I wanted to say so I hope you all received it. There is currently only
37 about 329 hospital beds in this city so I am in favor of this development and it is the best community
38 plan I have ever seen in this city. I would ask that you pass this item.

39

40 Billie Haynie, Member of the Public said my husband and I own a townhome located on Camino Del
41 Rex and our home backs up to the Country Club property so this project greatly impacts us. We
42 strongly support the Park Ridge development and the property rezoning. My neighbors and I have

1 collected 833 signatures in support of the development which was given to Susana Montana. There
2 is more people who are in support of this project than against it.

3

4 Rick Jenson, Member of the Public said I am a townhouse owner and my home would be adjacent
5 to this project. I am concerned for the health and welfare of all of our city residents and I am in
6 support of this project.

7

8 Councillor Smith said point of order; regarding the applause during our presentations, I've always
9 asked that we withhold applause, especially on emotional issues, it easily becomes a situation where
10 people are trying to out applaud each other I really would like to hear the virtue of what people are
11 sharing. So, no offense intended toward what you have said sir, or what anyone else has said but
12 simply that I would like to request they withhold applause.

13

14 Mayor Miyagishima said I know that has been brought up throughout the years; as long as you don't
15 boo or hiss or anything like that, I think it is just a show of their support so if you all could just keep
16 it to a minimum, like a golfers clap.

17

18 Harry Henson, Member of the Public said I am a homeowner of a home that is adjacent to the
19 proposed medical center and I am excited about the plans to transform the deteriorating golf course
20 property into a modern medical facility. This will provide a positive impact for this area by
21 increasing jobs and increase the demand for homes in the neighborhood.

22

23 Jay Robe, Member of the Public said this will be a skilled facility and I do support it.

24

25 Tamie Smith, Member of the Public said I don't live in the Country Club area but I do live close to
26 this area and I think this development is a nice development but this is the wrong place for that
27 development. That is an extremely congested area and I'm concerned about the fact that a helicopter
28 pad is planned because that is not the place to have a helicopter.

29

30 George Lowen, Member of the Public said I am part of the finance group and we are very excited
31 about this project. I am also friends with the Pofahl's and they have worked very hard on this...

32

33 Councillor Small said we received clear direction from Mr. Connelly that it is the "what" not "who"
34 of this item that is the focus here.

35

36 George Lowen said we have debt and equity that we have lined up and we have done a lot of due
37 diligence on this project. We support this project and we stand behind it.

38

39 Hector Maese, Member of the Public said I am here to endorse the Park Ridge proposed
40 development. I live next to this proposed development and as a member of the Country Club I knew
41 the closing of this golf course was necessary. I have attended seven meetings regarding this project
42 and all the meetings have expressed a consistent and transparent theme and have invited public input.

1 This hospital will not only serve the immediate community but it'll also serve the entire surrounding
2 areas. This project will likely enhance our property values and it will add balance, life and beauty
3 to the former Las Cruces Country Club Golf Course property and to the City of Las Cruces.

4
5 Richard Ferrary, Member of the Public said I am a member of the Las Cruces Country Club and I
6 was hoping that the City would of been able to buy this property three years ago to turn this property
7 into a premier park. It is sad to see a beautiful piece of property looking like it does today. We need
8 to do something right with this property and I think this proposed development is the right thing.

9
10 Ernest Oakley, Member of the Public said I live on Camino Del Rex and I also support the Park
11 Ridge development. This is a retirement community so people need to be able to walk or get a ride
12 to everything when they are unable to drive anymore.

13
14 Ray Jaramillo, Member of the Public said I am the Director of Alpha School which is located near
15 the T-box of the old Country Club and I have several fond memories of the Country Club. This
16 project reminds me of an old baseball movie Field of Dreams that states "if you build it, they will
17 come." This project will revitalize this section of town and bring in new businesses to that area. I ask
18 that you take a leap of faith and listen to the voice that states "if you build it, they will come."

19
20 Patty Holland-Branch, Member of the Public said this is a regional economic development
21 opportunity and my husband and I are thrilled to see a project of this caliber coming to our region.

22
23 Steve Newby, Member of the Public said I am familiar with the development plans and this project
24 is a great example of smart growth development. Don't loose the chance of doing what you have
25 preached for years which is to bring sustainable development to Las Cruces.

26
27 Edward Sweetser, Member of the Public said I am a surgeon and I am supportive of developing the
28 Country Club property but we already have plenty of medical providers in this city. We have two
29 hospitals in this city and both of them have excellent quality and they both have ER rooms.

30
31 -----

32
33 *The electricity went out due to a storm at approximately 5:00 p.m.

34
35 Councillor Small Moved to for a Recess and Councillor Thomas Seconded the motion.

36
37 -----

38
39 Mayor Miyagishima called for the roll on the Motion for a Recess and it was Unanimously
40 Approved. 7-0

41
42 -----

1

2 Meeting reconvened at 5:45 p.m.

3

4

5

6 *The comments of the next five members of the public were recorded via a cell phone.

7

8 Edward Sweetser continued with his comments and said when a new hospital is built then the
9 occupancy rate for the older hospital goes down so this project would make Memorial Medical suffer
10 more and it could possibly lose more of its staff.

11

12 Edward Roybal, Member of the Public said it seems like there is a lot of focus on whether or not we
13 need another hospital and I understand that the strongest components of this project are people who
14 have gone out of state to have procedures done because they were unsatisfied with the current
15 facilities in Las Cruces.

16

17 Cecil Campbell, Member of the Public said I am overwhelmingly for the Park Ridge project and I
18 think it would benefit the welfare of this community.

19

20 Brook Robertson, Member of the Public said I see people looking for jobs every single day and the
21 current unemployment rate for Las Cruces is at 8.5 and the National rate is at 7.6. This project is a
22 great way to revive our community and bring life back into it.

23

24 Ron Camuñez, Member of the Public said I am a longtime resident of Las Cruces and about 12 years
25 ago Mountain View presented their proposal for a new hospital and that Council denied them. So
26 Mountain View just found a property that was already zoned to allow hospitals and built their
27 facility. I am not advocating that we need a hospital or don't need a hospital; I'm just saying that we
28 need to be more pro-business in this community and we need to keep an open mind.

29

30 *The electricity came back on at approximately 5:51 p.m.

31

32 Councillor Pedroza said I would like everyone to read the direct quote of the statute so you can
33 realize exactly why the City Attorney stated that the PUD is not a problem. There is going to be more
34 of a need for medical providers and I agree that the market will decide if this facility is needed. I
35 would like to know why the Planning and Zoning Committee vote was so close?

36

37 Susana Montana said the Planning Commissioners stated that they were concerned about the overall
38 110-acres and the TIA not being present at that time.

39

40 Councillor Pedroza said then I just want to state that I think this is in order and staff and City
41 Council have not violated any statutes so my vote would be "yes."

42

1 Councillor Thomas said this whole process has been very transparent and people need to remember
2 that this is only for the zoning change. There still might be a possibility that they can have
3 connectivity to Apodaca Park and maybe they can also put something like a band-shell in place so
4 there can be things like weddings there. Also, I want to mention that my mother lived at the Heritage
5 Assisted Living and it was absolutely a lifesaver for us.

6

7 The other night, at the MPO meeting, the NMDOT was talking about their plans for North Main and
8 the intersection of the three crosses and they said they didn't have any information about this plan
9 so I'm just asking that as we move forward that the City works with them as they move along with
10 their plans. So, for many supported reasons, I do support this project.

11

12 Councillor Small said there has been a great deal of support that has been expressed and there has
13 been some well researched opposition. It seems to me that the most substantive issues have been
14 clearly transparently resolved which is very good. This could be a very positive thing for our
15 community in the sense of offering additional opportunities to a growing population and if it isn't
16 done within two years then the zoning doesn't go through. I am also inclined to support this project
17 and move forward today.

18

19 Councillor Smith said I am appreciative of the outline we were given so basically I'm going to work
20 my way down through it. First, promote the health, safety and general welfare; I believe that in
21 listening about how this is planned, that is a general welfare type of question; the health piece of
22 course is self-evident; and I think the safety concerns that have been brought up about the second
23 access, could be a sticky point but I think that is going to continue to be addressed; ensure that the
24 land uses are appropriate for the location, I think this is one of the things where 800 signatures and
25 so many of them from the general area, would seem to indicate that the land use is appropriate for
26 that area; mitigate congestion in the streets, this one is probably the most problematic for me because
27 we know that intersection is one of the worse in Las Cruces; however, we also know that NMDOT
28 is going to be working on that intersection and hopefully helping mitigate the congestion there. Also,
29 in providing a planned development of this sort, we're looking at how we can better do this sort of
30 project better than we have in the past; encourage development of vacant properties within an
31 established area, that one is very much self-evident; ensure that the land use proposals are sensitive
32 to the character of the existing neighborhoods, I think the input from the residents of the area speaks
33 to that and I think the plans as submitted show a great listening characteristic as far as what is going
34 on in the neighborhood; conserve the value of buildings, we have heard from a number of property
35 owners in the area who feel that this is appropriate in that regard; reduce noise, glare, odor; that one
36 is hard to pin down so that is something that should be addressed in the ongoing discussion; mitigate
37 conflicts among neighbors, there does seem to be some conflict among the neighbors but mostly it
38 sounds like the neighbors are pretty united in what they want to see here; per relevant New Mexico
39 Case Law, change neighborhood or community conditions to justify the change, we've seen a radical
40 change there. I think this does help to redirect this in a positive direction and a different use category
41 is more advantageous to the community per the policies of the Comprehensive Plan and the Infill
42 Overlay District and this addresses that in a very positive way. So, I am very confident that we are
43 well within our prerogative to vote for this today.

1

2 Councillor Silva said I am still concerned with the traffic. It stated that there would be approximately
3 7,000 trips per day so I would like to know if there are any streets currently in this city to show as
4 a comparison?

5

6 Robert Garza said a street to visualize is Lohman Avenue, near Telshor, there is about 45,000
7 vehicles a day.

8

9 Councillor Silva said that's 45,000, they said about 7,000.

10

11 Mayor Miyagishima said I think Missouri, Boutz and Solano is about 12,000.

12

13 Robert Kyle said I can't think of a street that carries that amount.

14

15 Councillor Silva asked what is the traffic count on Camino Del Rex?

16

17 Robert Kyle said I don't know that information but we can see if we can find it for you. The
18 development of this property will increase the traffic in this area but for the incremental increase of
19 the existing traffic in that area, at this point and time I cannot tell you that amount.

20

21 Councillor Silva asked who is the current owner of the property?

22

23 Robert Kyle said it's the Las Cruces Country Club.

24

25 Councillor Silva said our application states on it that "no application will be accepted without the
26 original signatures of the owner of record of the property" and if there is more than one then all of
27 them have to sign it. However, Mr. Pofahl signed this application so does that make this application
28 invalid?

29

30 Harry (Pete) Connelly said in many cases the owner designates an agent so I think that is what we
31 have here.

32

33 Robert Kyle said a member of the Las Cruces Country Club did sign the application as the property
34 owner.

35

36 Councillor Silva said it wasn't in my documentation.

37

38 Mayor Miyagishima said that signature page is on page 37 of 674 and I would guess that this is a
39 situation where the buyer states they will only buy the property if the zone change is approved.

40

41 Councillor Silva said we can only work with the information we have at hand. The traffic really does
42 concern me and I'm still not comfortable with not having a TIA done. The NMDOT did not support

1 this project and they didn't feel comfortable with what was submitted so that really concerns me.

2

3 Regarding the health aspect; we need to look beyond walking paths and so forth and I feel there is
4 going to be a local impact on the healthcare of this community from this project.

5

6 Regarding the economic development; I don't think this will generate any new jobs, with the
7 exception of the construction but that is a one time thing so I feel it will only be a shift of services.

8

9 Regarding the land use for this property; I have yet to hear any evidence that this would be a good
10 location for a hospital. I am comfortable with the overall development part but we have to stay
11 focused on just this area and there would be sirens, helicopters and traffic in this area. It is currently
12 zoned for a golf course and someone could buy it and keep using it as golf course.

13

14 Overall, I am not comfortable with moving forward with this project but I do agree that we shouldn't
15 let this property go idle.

16

17 Councillor Sorg said I appreciate this development and it would be good infill. I am concerned that
18 there wasn't a TIA done and it also troubles me some that we are only considering 30-acres out of
19 the property's 110-acres. I would like to ask the developer that if the special permit for the heliport
20 is not approved then would that be a deal breaker for the hospital?

21

22 Bob Pofahl said from my understanding, that would be dealt with when we come for a subdivision
23 map. I'm sure we'd want to have that for an emergency but it isn't expected to be a primary helo-pad
24 location. I don't think it would be a deal breaker but we understood that we would have to apply for
25 that when we come for a subdivision map for the building permit.

26

27 Councillor Sorg said so if the heliport was not allowed, would that be a deal breaker?

28

29 Bob Pofahl said I couldn't answer that today; I would have to consult with the others.

30

31 Mayor Miyagishima said I just want to say that when we were offered this property I had several
32 meetings with the public but there was no way we could afford it. I think this is a very well thought
33 out plan and I think it will be beneficial for the area.

34

35

36

37 Mayor Miyagishima called for the roll on the Motion to Approve Council Bill No. 14-004;
38 Ordinance No. 2689 and it was Approved. 6-1 Councillor Smith, Councillor Pedroza, Councillor
39 Small, Councillor Sorg, Councillor Thomas and Mayor Miyagishima voted Aye. Councillor Silva
40 voted Nay.

41

1 -----

2

3 **VIII. BOARD APPOINTMENTS**

4

5 There were no board appointments.

6

7 -----

8

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

11

12 (13) Council Bill No. 14-006; Ordinance No. 2691: An Ordinance Amending the Las Cruces
13 Municipal Code, Section 2-189(B)(3) Concerning Meetings for Boards.

14

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

16

17 (14) Council Bill No. 14-007; Ordinance No. 2692: An Ordinance Approving a Zone Change
18 From R-4 (Multi-Dwelling High Density & Limited Retail and Office) to O-2 (Office,
19 Professional - Limited Retail Service) on 0.35 ± Acres of Land Located at 330 E. Boutz
20 Road. Submitted by Nava-Tech Inc. On Behalf of Thomas A. & Janet L. Paz, Property
21 Owners (Z2862).

22

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

24

25 (15) Council Bill No. 14-008; Ordinance No. 2693: An Ordinance Approving a Zone Change
26 From C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) on 1.42 ±
27 Acres of Land Located at 150 E. Madrid Avenue. Submitted by Emilio C. Perez & Henry
28 L. Bernal, Property Owners (Z2863).

29

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

31

32 (16) Council Bill No. 14-009; Ordinance No. 2694: An Ordinance Adopting a Municipal Hold
33 Harmless Gross Receipts Tax of Three-Eighths of One Percent (3/8%).

34

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

36

37 -----

38

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

40

41 There were no City Council Member Board Reports.

42

43 -----

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

XI. GENERAL DISCUSSION

a.) Mayor

Mayor Miyagishima passed out some information regarding a medication drop box and said years ago people discarded their old medications by flushing them down the toilets but now we know that is not a good thing so many places are constructing these medicine drop boxes so people can just drop them off there and then they can be properly discarded. I just thought I would share that information with you.

b.) City Council

Councillor Thomas passed.

DRAFT

Councillor Sorg said I just hope you will leave a copy of what you just passed out to Council on my desk.

Mayor Miyagishima said I will give you one.

Councillor Small passed.

Councillor Pedroza passed.

Councillor Smith passed.

Councillor Silva said our library and the Aquatic Center will be closed on Sunday and I was wondering if we could have a work session to discuss the scheduling of these types of closures because it would seem that more people would use these facilities during the weekend.

1 I had the opportunity to speak with some of the members of the Parks and Rec. Board and they stated
2 that a lot of the Park revenues are going into the General Fund instead of going back into the parks.
3 I think during our next budget that we should look at putting some of that money back into the parks
4 instead of putting it in the General Fund.

5

6 There is a policy in place that any type of nonprofit group or person that is hosting some type of park
7 organization, their fee is based on their gross revenue and I don't think that encourages community
8 groups to utilize our park system. The Parks Department said they were going to look into it and I
9 know they are coming back to us in October with some park changes but the situation is that we are
10 having events happening from now to October so maybe those people can come before us in a case
11 by case plea because I don't think it is right that an organization should have to pay gross revenues
12 on a project. I think it should be a flat fee so we don't violate the Anti-Donation.

13

14 Mayor Miyagishima said maybe we could have a work session to revisit the possibility of having a
15 YMCA or somebody else run our swimming pools.

16

17

18

19 c.) City Manager

20

21 Robert Garza, City Manager said we have a work session on the Park Policy scheduled for late
22 October and I know there is an event in early October but the problem is that Council has adopted
23 a resolution regarding our fee structure so staff is just following that particular document. We could
24 just circumvent the work session and bring forward a resolution to change our fees but I think we
25 need to have a conversation about it first. I just don't think there is a way that we could deviate from
26 our policy.

27

28 Councillor Small said I would suggest that we have a special work session to discuss that item.

29

30 Robert Garza said if there is a will to move that discussion up then we could add it to our September
31 9th work session.

32

33 Councillor Small said I would support that.

34

35

36

37 Councillor Smith Moved to Adjourn and Councillor Small Seconded the motion.

38

39 Mayor said all of those in favor signify by saying "Aye."

40

41 Council said "Aye."

42

43 **Meeting Adjourned at 6:49 p.m.**