City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 3 **Ordinance/Resolution#** 14-098

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of December 2, 2013 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☐ LEGISLATIVE ☒ ADMINISTRATIVE

TITLE: A RESOLUTION PROVIDING FOR DETERMINATION OF REASONABLE NOTICE OF MEETINGS OF THE CITY COUNCIL AND ITS BOARDS AND COMMITTEES FOR CALENDAR YEAR 2014.

PURPOSE(S) OF ACTION:

To provide reasonable notice of City Council meetings.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Esther Martinez-Carrillo	**Department/Section:** Legal/City Clerk	**Phone:** 541-2115
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Annually the Las Cruces City Council is required to pass an Open Meetings resolution, which determines reasonable notice of meetings of the City Council and the City Council appointed boards and committees pursuant to NMSA 1978, Section 10-15-1 (D).

This resolution provides the same requirements as previously adopted and includes an amendment passed by HB 21 that requires final agendas be available 72 hours prior to a meeting, except in the case of an emergency. Procedures for posting notices of regularly scheduled open meetings, closed meetings, public hearings, work sessions, special meetings, emergency meetings and City Council appointed board meetings are covered in the resolution.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Regular Meeting Schedule for calendar year 2014.

(Continue on additional sheets as required)

SOURCE OF FUNDING:

Is this action already budgeted? **N/A**	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
	Budget Adjustment Attached	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? **N/A**	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $_____for FY__.
	No	☐	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the meeting dates scheduled for calendar year 2014 as referenced in Exhibit "A".
2. Vote "No"; this is not an option.
3. Vote to "Amend"; this could change the meeting dates.
4. Vote to "Table"; this will delay the scheduling of meeting dates for calendar year 2014.

REFERENCE INFORMATION:

N/A

(Continue on additional sheets as required)

RESOLUTION NO. 14-098

A RESOLUTION PROVIDING FOR DETERMINATION OF REASONABLE NOTICE OF MEETINGS OF THE CITY COUNCIL AND ITS BOARDS AND COMMITTEES FOR CALENDAR YEAR 2014.

The City Council is informed that:

WHEREAS, Las Cruces City Council met in regular session at 1:00 p.m. on December 2, 2013; and

WHEREAS, Section 10-15-1(D) of the Open Meetings Act requires the Las Cruces City Council to determine annually what constitutes reasonable notice of its public meetings; and

WHEREAS, House Bill 21 amended the Open Meetings Act (OMA) to increase the time that public bodies must make the final agenda available from at least 24 hours prior to a meeting to at least 72 hours, except in the case of an emergency; and

WHEREAS, House Bill 21 also requires that agendas be posted on the public body's website within the specified time periods if a website is maintained.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT pursuant to NMSA 1978, Section 10-15-1(A) and (B), all meetings of a quorum of the City Council of the City of Las Cruces, New Mexico, held for the purpose of formulating public policy, discussing public business, or for the purpose of taking any action within the authority delegated to the City Council, as further described in Sections III and IV of this Policy, shall be open to the public, except as otherwise provided by law. Any member of the public may attend an open meeting and listen to the deliberations and proceedings of the City Council.

(II)

THAT pursuant to NMSA 1978, Sections 10-15-1(H) and (I), the City Council upon its own motion may close a meeting to the public if the subject matter of such discussion or action is included in Subsection H of the Open Meetings Act, NMSA 1978, Section 10-15-1, or if the need to close the meeting is required by other laws which specifically preserve the confidentiality of certain information that is to be considered at the closed meeting. If any meeting is closed pursuant to the exclusions contained in Subsection H of NMSA 1978, Section 10-15-1, such closure: (1) if made in an open meeting, shall be approved by a majority vote of the quorum of the City Council and the specific statutory or other authority for such closure, and the subject to be discussed, shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting, and such vote shall be taken in an open meeting and the vote of each Councillor shall be recorded in the minutes; (2) if called for when the City Council is not in an open meeting, such closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting, and stating with reasonable specificity the subject to be discussed, is given to members of the general public. Only those subjects announced or voted upon prior to closure by the City Council shall be discussed in a closed meeting.

Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting, if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.

Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in the closed meeting shall be made by vote of the City Council in an open public meeting.

(III)

THAT meetings at which a quorum of City Councillors discuss or adopt any proposed resolution or ordinance or take any other formal action are open to the public. Pursuant to NMSA 1978, Section 10-15-1(C), a Councillor may participate in any open meeting called to take formal action by means of a conference telephone or other similar communications equipment. Participation by telephone or other similar communications equipment is permitted when requested by a Councillor and approved by Council. Requests shall be considered on a case by case basis. Provided that each Councillor participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any Councillor who speaks during the meeting.

A. Regularly Scheduled Open Meetings.

Unless the business before the City Council dictates otherwise, the City Council will conduct open meetings to take formal action on the first and third Monday of each month at 1:00 p.m. as referenced in Exhibit "A". When Monday is a city holiday, that meeting will be held on the next business day. The City Council has the authority to change the meeting time, with minute action in compliance with the Open Meetings Act, for subsequent regular meetings.

The City Manager and staff are hereby authorized and directed to publish this resolution one time as a legal advertisement in a newspaper of general circulation in the City of Las Cruces.

The City Council will conspicuously post an agenda of the meeting at least 72 hours prior to the meeting. In accordance with this resolution the agenda shall be issued and circulated to the press, radio and other public information media who have provided a written request for such notice and posted on bulletin boards of the City of Las Cruces City Hall, the Branigan Memorial Library and on the city's website.

The agenda shall indicate the date, time and place of the meeting, a title of all action items to be considered at that meeting, and a list of any other specific items of business to be transacted. The City Council shall take action only on items appearing on the agenda.

B. Hearings Before the City Council.

At any hearing at which a quorum of the City Council will be present, the City Council will provide notice of the hearing as an open meeting to take formal action and shall issue an agenda as prescribed in Section III(A) or (C) of this policy. Within a reasonable time, but in no case less than 72 hours, prior to the hearing, the City Council also shall provide actual notice to all parties in that case or their counsel and to any other person who has requested such notice of the date, time, location and purpose of the hearing.

If during the course of a public hearing at which a quorum of the City Council presides the City Council determines that the hearing should be recessed and reconvened to a date subsequent to that stated in the meeting notice, the City Council will specify the date, time and place for the continuation of the meeting prior to recessing and will conspicuously post notice of the date, time and place for the reconvened meeting near the door of the place where the original meeting was held and in the bulletin board in the lobby of City Hall.

C. Other Open Meetings in between Regularly Scheduled Open Meetings.

If the public interest requires other formal action by the City Council between regularly scheduled open meetings, the City Council may conduct an open meeting to take formal action at such times. Except in the case of an emergency as defined in NMSA 1978, Section 10-15-1(F), the City Council will provide notice of each such meeting by conspicuously posting an agenda and a notice of the date, time and location of such special open meeting in the bulletin board in the lobby of City Hall and by emailing a copy of the notice to the press at least 72 hours prior to the special open meeting.

(IV)

Work Sessions

THAT a quorum of the City Council also meet periodically in "Work Sessions". A "Work Session" is any meeting of a quorum of the City Council which does not involve any formal action by the City Council. Such sessions include, but are not limited to: (1) discussion related to the formulation of public policy prior to the formal discussion or adoption of any resolution or ordinance pending before the City Council, (2) discussions of internal administrative actions concerning the operations of the City Council, and (3) information discussions between staff and the City Council in preparation for formal discussion or action. Work Sessions of a quorum of the City Council are open meetings and are open to the public, unless the subject of the work session is included in Subsection H of NMSA 1978, Section 10-15-1 and the City Council decides to close the work session to the public in accordance with NMSA 1978, Section 10-15-1(I) and Section II of this policy. Any person wishing to attend a work session of the City Council

which has not been closed pursuant to NMSA 1978, Section 10-15-1(H) and 10-15-1(I) and this Open Meetings Policy shall be allowed to attend and listen to the discussions.

(V)

Emergency Meetings

THAT emergency meetings will be called only under unforeseen circumstances which demand immediate action to protect the health, safety and property of citizens or to protect the public body from substantial financial loss. The Las Cruces City Council will avoid emergency meetings whenever possible. Emergency meetings may be called by the Mayor or a majority of the members upon four (4) hours notice, unless threat of personal injury or property damage requires less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda.

All emergency measures adopted must be submitted to the Attorney General within 10 days of the meeting at which the action was taken, provided that the requirement to report to the Attorney General is waived due to a state or national emergency.

(VI)

Council Appointed Commissions,

Committees and Board Meetings

THAT Commissions, Committees and Advisory Boards of the City of Las Cruces shall similarly issue their agendas by posting one on the City Hall bulletin board, the Branigan Memorial Library bulletin board, on the city's website, furnishing copies to the news media and provide such other notice as may be required by ordinance and law. Such issuance and posting are determined to be reasonable notice.

(VII)

All other Meetings

THAT all other meetings which may be called for informational purposes at which no action is to be taken shall be held only after written notice is issued to the news media no later than 12:00 noon of the day of such meeting, or four (4) hours before such meeting, whichever is greater.

(VIII)

Notice Compliance

THAT substantial compliance with any one of the appropriate foregoing methods of giving notice shall constitute compliance with this resolution and Section 10-15-1 to 10-15-4 NMSA 1978. Nothing herein shall prevent the use of additional means or methods of giving notice of regular or special meetings. Nothing herein shall require new notice of any public meeting for which notice has been given and which is recessed or adjourned. However, in recessing the meeting, the presiding officer shall announce the meeting, the time and place the meeting shall reconvene.

(IX)

Accommodation

THAT in addition to the information specified above, all notices shall include the following language:

If you need an accommodation for a disability to enable you to fully participate in this event please contact us 72 hours before the event at 541-2115/V or 541-2182/TTY.

(X)

Validity

THAT if any section, paragraph, clause or provision of this resolution shall be for any reason held to be invalid or unenforceable, the validity or unenforceability of such section, paragraph or clause or provision shall not affect any of the remaining provisions of this resolution or its application to other situations.

(XI)

Repealer

THAT all by-laws, order and resolutions or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repeal shall not be construed to revive any prior by-law, order or resolution or part thereof, heretofore repealed.

(XII)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2013

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Levatino: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT "A"

City of Las Cruces
Regular Meeting Schedule

Calendar Year 2014

January

Monday, January 6, 2014
Tuesday, January 21, 2014

February

Monday, February 3, 2014
Tuesday, February 18, 2014

March

Monday, March 3, 2014
Monday, March 17, 2014

April

Monday, April 7, 2014
Monday, April 21, 2014

May
Monday, May 5, 2014
Monday, May 19, 2014

June

Monday, June 2, 2014
Monday, June 16, 2014

July

Monday, July 7, 2014
Monday, July 21, 2014

August

Monday, August 4, 2014
Monday, August 18, 2014

September

Tuesday, September 2, 2014
Monday, September 15, 2014

October

Monday, October 6, 2014
Monday, October 20, 2014

November

Monday, November 3, 2014
Monday, November 17, 2014

December

Monday, December 1, 2014
Monday, December 15, 2014

City of Las Cruces®
PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of December 2, 2013 (Adoption Date)

TITLE: A RESOLUTION PROVIDING FOR DETERMINATION OF REASONABLE NOTICE OF MEETINGS OF THE CITY COUNCIL AND ITS BOARDS AND COMMITTEES FOR CALENDAR YEAR 2014.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes ☐ No ☒

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	Esther Martinez-Carrillo	541-2115	10/28/13
Department Director	Kay D (Rite) Lennilly	541-2128	
Other			
Assistant City Manager /CAO Management & Budget Manager	[illegible] [illegible]	541-2078 541-2107	10/30/13 10/29/13
Assistant City Manager/COO	[illegible]	541-2271	10/31/13
City Attorney	Kay D (Rite) Lennilly	541-2128	
City Clerk	Esther Martinez-Carrillo	541-2115	10/28/13

Rev. 8/2011