

Item #2
Regular Meeting
December 16, 2013



City Council
of the
City of Las Cruces

Regular Meeting

December 16, 2013
1:00 P.M.

Council Chambers, City Hall

MEMBERS PRESENT:

STAFF:

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

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

DRAFT

I. OPENING CEREMONIES

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

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

Mayor Miyagishima and Councillor Levatino presented the Mayor's Citation for Community Service Award to Rebecca Parmeter, District Manager of Crestline Building Corporation.

Mayor Miyagishima and Councillor Levatino presented the Mayor's Citation for Community Service Award to Jack and Margaret Petrowsky.

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

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

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3 There were no conflicts of interest.

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7 **III. PUBLIC PARTICIPATION**

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9 Susan Brown, Member of the Public said I am with the Southern New Mexico Transplant Support
10 Group which does the Donate Life Car Show every year and we are hoping the ordinance is approved
11 today so I can begin to set a date for the 2014 Car Show.

12

13 Maggie Fallon, Member of the Public said I am representing the Las Cruces Players Tennis
14 Association and there is a need for the resurfacing of the courts at Lyons Park.

15

16 Mayor Miyagishima said that project is included in the upcoming budget cycle for next year.

17

18 Ron Camuñez, Member of the Public said I would like to tell Police Chief William that I appreciate
19 his service and he has always been extremely helpful to this community and to this State.

20

21 I also want to thank Eddie Binns for his help with the Parks and Recreation Board.

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

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29 Mayor Miyagishima said Item 3 needs to be removed from the Consent Agenda for discussion.

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33 Councillor Small Moved to Approve the Agenda as Amended and Councillor Smith Seconded the
34 motion.

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

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1 **V. CITY COUNCIL MINUTES**

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3 *(1) Regular Meeting of November 18, 2013

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

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9 *(2) Resolution No. 14-105: 1A Resolution Adopting the “Health-Related Public Services
10 Application and Guide,” as Recommended by the Health and Human Services Advisory
11 Committee.

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13 *(4) Council Bill No. 14-015; Ordinance No. 2700: An Ordinance Repealing and Replacing
14 LCMC 1997, Chapter 13, Article I, Fair Housing, Sections 13-1 Through 13-49 in Its
15 Entirety.

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

21 *(3) Resolution No. 14-106: 1A Resolution Approving the Distribution of Stipends to Local
22 Youth Leagues and Organizations to Assist With Operational Expenses for the 2013 Season,
23 In the Amount of \$12,500.00.

25 Councillor Silva Moved to Approve Resolution No. 14-106 and Councillor Small Seconded the
26 motion.

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30 Councillor Silva asked is this an increase or decrease from last year?

32 Mark Johnston, Parks and Recreation Director said it is a slight increase.

34 Councillor Silva asked do you rotate the groups or do the same groups receive this every year?

36 Mark Johnston said BMX has received this before but we have a brand new operation out there and
37 we are expanding that program to offer BMX to folks who can't afford it. We are partnering with
38 BMX to purchase bicycles and we will be utilizing the track for our Afterschool Program.

40 The Christian League continues to grow and they have not come to us in the past for money but this
41 year they have come forward to expand their scholarships and growth opportunity.

1 Last, is a new running club that we worked with last year and this is an opportunity to offer more
2 scholarships and more runs throughout the city.

3

4 Councillor Silva asked were there other groups other than the three groups that applied?

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6 Mark Johnston said this year, no. In past years, yes.

7

8 Councillor Silva said the PAL use to receive funding from this program and now they are not
9 receiving funding so what is the future of PAL?

10

11 Mark Johnston said the future of PAL is under discussions. For years it was run through the Police
12 Department but for the last several years it hasn't been a Police operation. It is now run by an outside
13 entity through the PAL organization so they are just like other organizations that use City facilities.

14

15 Councillor Small said I would like to congratulate you on working on programs that help
16 underprivileged youth. I would like to know what are the legal things that make sure there is a non-
17 bias use of public dollars?

18

19 Mark Johnston said we look at their total operation. We look at things like their financials and the
20 number of youth that they have served. They have to have bylaws and they have to live by their
21 bylaws; they have to follow their own rules. As long as they have their paperwork in place, they
22 come forward with it; then the league operates their own operation. Any money that goes from the
23 City's coffers to those organizations, we can dictate. They need to show us any scholarships that
24 were done, any equipment that was given to folks that can't afford it; so we control it in that aspect.

25

26 Councillor Small said I do think we need to maintain the separation between church and state and
27 I think it might be worthy for Mr. Connelly or others to address that issue.

28

29 Robert Garza, City Manager said the Christian Ball League is really just the name of the league so
30 its not a part of a set criteria used to participate.

31

32 Councillor Smith said I do believe there are organization like the YMCA and others that work
33 beyond a particular religious name but we do have to be certain that we are not participating in
34 something that promotes a particular religion. We are able to provide stipends because they are
35 performing a service for us within the community; correct?

36

37 Mark Johnston said that is correct.

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1 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 14-106 and it was
2 Unanimously Approved. 7-0

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6 (5) Resolution No. 14-107: 1A Resolution Approving the Parks and Recreation Department
7 2014/2015 Fees and Charges/Facility Use Policy and Repealing Resolution 13-133.

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9 Councillor Sorg Moved to Approve Resolution No. 14-107 and Councillor Small Seconded the
10 motion.

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14 Mark Johnston, Parks and Recreation Director gave an overhead presentation and said during the
15 September 9, 2013 Work Session, staff provided Council with an overview of the recommended
16 changes to the policy and Council offered specific direction to remove the 10% fee for fundraising
17 events that are held at our local venues. The Fees and Charges Policy was discussed openly at the
18 Parks and Recreation Advisory Board meeting on September 19th and October 17, 2013 and a Public
19 Meeting was also held on October 17th prior to the start of the Parks and Recreation Advisory Board
20 Meeting which only one comment was received and it was to eliminate the 10% fee. The policy
21 changes include developing a payment plan that would allow folks to work with staff to come up
22 with an affordable option; expanding the use of recreation ID cards; streamlining the process for
23 mobile and public property vending; deleting appeals and disciplinary processes which are now City
24 Manager Policies; adjusting the tournament fees for adults; adding a minimal tennis court fee to meet
25 the needs of the user groups; eliminating the collection of the 10% ; and developing a flat fee rental
26 system. The flat fee schedule would be \$50 per four hours for a section of a park or area; \$100 per
27 four hours for a section with electricity/water; \$500 per day for car shows on lawns; and \$1,250 per
28 day for fundraising events with restricted public access like the Whole Enchilada Festival and the
29 Renaissance Faire.

30

31 Councillor Pedroza asked will any of the fees be used to fix the bathrooms at Young Park?

32

33 Mark Johnston said that is a Council decision.

34

35 Councillor Smith said I know we have a \$1.00 fee for showers but I'd like to know how we
36 determine if someone is going to use the shower or not in order to charge them that fee?

37

38 Mark Johnston said that fee is only charged to someone who is only coming in to take a shower.
39 People who come to swim usually take a shower before and after swimming but we don't charge
40 them an additional fee for showering.

41

1 Councillor Smith asked have you heard anything from people using the facilities or any other input
2 regarding these fees and how it impacts people's usage of these facilities?

3

4 Mark Johnston said we have worked extremely hard over the past seven or eight years to fine-tune
5 this policy and we have set up comment and suggestion boxes. We do try to get out and talk with
6 folks. I have heard that some of our fees at the Aquatic Center are a little high; however, we have
7 adjusted them and we have them in place in order for us to get a return on our investment.

8

9 Councillor Levatino said I am really impressed with the way you have amended and adjusted the fee
10 schedules. I think it is much more balanced now than it has been in the past. You skipped over the
11 portion regarding New Mexico Fish and Game regulations so can you talk a little bit about it?

12

13 Mark Johnston said there are very few fishing opportunities here in Las Cruces so we have worked
14 with Fish and Game to turn Young Park Pond into a true fishery. You now have to have a license
15 to fish there and they are stocking it with trout during the cool water season.

16

17 Councillor Small said I like the idea of having ID cards and being able to do market research on the
18 data provided by these cards.

19

20 Councillor Silva said I really appreciate how you are listening to the public and I think going to a flat
21 rate system will be more equitable for everyone. I also want to thank the Parks and Rec Board for
22 all the time they have invested to this issue.

23

24 Councillor Sorg said I am excited about all the things you presented and I think this is going in the
25 right direction.

26

27 Kevin Dasing, Member of the Public said the Veterans Advisory Board wrote a letter to Mark
28 Johnston regarding pool fees and requested that pool fees be 50% off for Veterans just as they are
29 Seniors. As a Veteran, I would like to see this suggestion considered because it would just be a small
30 price compared to what those people have done for our community.

31

32 Ron Camuñez, Member of the Public said we are blessed as a community to have our Parks and
33 Recreation Department.

34

35 Councillor Smith asked is it possible for us to get some sense of what the impact would be for what
36 Mr. Dasing is talking about?

37

38 Mark Johnston said I don't have that information off the top of my head. We do have several
39 Veterans, people who are currently serving and Senior Citizens in our area so we would have to
40 consider things like if a Veteran had a child that was in our Afterschool Program, would they also
41 get 50% off the \$500 fee for that program? It is a wonderful thing to think about but it would add
42 up.

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2 Councillor Smith said I would suggest that we go ahead and approve this item today but that we put
3 that item on a work session for discussion.

4
5 Robert Garza, City Manager said I wouldn't suggest that we put that on a work session too soon
6 because we would need time to collect data for that issue.

7
8 Councillor Small said it might be worthwhile to have the work session sooner than later so we can
9 at least begin to explore that issue.

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13 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 14-107 and it was
14 Unanimously Approved. 7-0

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18 Councillor Small Moved for a Five Minute Recess and Councillor Sorg Seconded the motion.

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22 Mayor Miyagishima called for the roll on the Motion for a Five Minute Recess and it was
23 Unanimously Approved. 7-0

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27 Meeting Recessed at approximately 2:21 p.m.

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31 Meeting Reconvened at approximately 2:29 p.m.

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35 (6) Council Bill No. 14-016; Ordinance No. 2701: An Ordinance to Amend the LCMC 1997,
36 Chapter 38, Article V, Section 43, Entitled Central Business District to Enact a Provision
37 Permitting Main Street Business Owners to Operate a Sidewalk Display on Public Property.

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39 Councillor Small Moved to Adopt Council Bill No. 14-016; Ordinance No. 2701 and Councillor
40 Smith Seconded the motion.

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2 Councillor Sorg Moved to Suspend the Rules and discuss Items 6 and 7 concurrently and Councillor
3 Smith Seconded the motion.

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7 Mayor Miyagishima called for the roll on the Motion to Suspend the Rules and discuss Items 6 and
8 7 concurrently and it was Unanimously Approved. 7-0

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12 Andy Hume, Senior Planner gave an overhead presentation and said the key to this item is the ability
13 to advertise a private business on public property. Usually what happens is you will have a business
14 located on private property and they are able to have signs and other forms of advertising on that
15 property through our permitting process. However, on Main Street we typically have a business or
16 building that is right up to the lot line. So, the purpose of this is to permit business owners to utilize
17 the public space that is immediately in front of their building with either an A-Frame sign or a
18 sidewalk display that is not in the path of travel. We don't want a clutter created with a bunch of
19 signs going up so there are restrictions placed within these ordinances; which one is that there is only
20 one A-Frame sign allowed per business.

21

22 Councillor Small said I do intend to support this today as an effort to maximize public space for the
23 benefit of all.

24

25 Robert Garza, City Manager said there are a lot of examples of things that need to be addressed
26 within our Sign Code so we are looking to do some type of demonstration to show people where they
27 would need to go to if they wanted to find different areas within our Code.

28

29 Councillor Silva asked who is going to determine the path of travel?

30

31 Andy Hume said the ADA calls for certain widths and certain distances that have to be maintained
32 and I believe the minimum is four feet for distance of travel but at certain points it has to be wider
33 than that; which that is defined within the ordinance for ADA specifications.

34

35 Councillor Silva said I do feel comfortable moving forward with this and I'm sure the Downtown
36 vendors will let us know if any of this becomes an issue for them.

37

38 Councillor Smith said I wanted to point out that as we are developing interest and interactive
39 opportunities on our Main Street; one of the things that we've seen is the recent proliferation of signs
40 hanging out of the sides of the buildings and I think that is a positive thing. I think some of those
41 signs add to the energy and I think we are talking about a more interactive sidewalk theater on Main
42 Street which should be more engaging for people so I do think it is a positive thing.

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2 Andy Hume said I just want to clarify that this did not go to public input but we did distribute it to
3 the Downtown business owners through the Downtown Las Cruces Partnership to solicit their
4 comments and input before we brought this forward to Council.

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6 Carrie LaTour, Executive Director of Downtown Las Cruces Partnership said regarding outdoor
7 entertainment, in the past several of our galleries, they have hired musicians to play outside of their
8 gallery during the Ramble and it really adds to the festive nature. So, we would like to know what
9 process they would have to go through in order to continue to do that because it does add to the
10 entertainment experience factor of the Downtown.

11
12 Mayor Miyagishima said I do support this and I think it is a great idea. Does the City require any type
13 of liability insurance from the vendors?

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15 Andy Hume said I will look into that with our Legal Department.

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19 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 14-016; Ordinance
20 No. 2701 and it was Unanimously Approved. 7-0

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24 (7) Council Bill No. 14-017; Ordinance No. 2702: An Ordinance to Amend the LCMC 1997,
25 Chapter 38, Article V, Section 43, Entitled Central Business District to Enact a Provision
26 Permitting Business Owners in the Central Business District to Use One A-Frame Sign on
27 Public Property.1

29 Councillor Small Moved to Adopt Council Bill No. 14-017; Ordinance No. 2702 and Councillor
30 Smith Seconded the motion.

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34 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 14-017; Ordinance
35 No. 2702 and it was Unanimously Approved. 7-0

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39 **VIII. BOARD APPOINTMENTS**

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41 There were no board appointments.

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3 **IX. NOTICE OF PROPOSED ORDINANCE(S) ----- 1.) *There will be no public discussion.***
4 **2.) *A councillor may ask staff for clarification on the proposed ordinance(s).***
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6 There were no proposed ordinances.
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10 **X. CITY COUNCIL MEMBER BOARD REPORTS**

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12 Councillor Small gave a report regarding the Animal Services Center of the Mesilla Valley Board.
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16 **XI. GENERAL DISCUSSION**

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18 c.) City Manager

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20 Robert Garza, City Manager said since today is the last Council meeting for this year and Chief
21 Williams is retiring at the end of the year; I'd like to allow him a few minutes to speak.
22

23 Chief Williams, LCPD presented the Mayor with a Certificate of Accreditation plaque that was
24 received from the New Mexico Municipal League and gave a farewell speech.
25

26 Councillor Smith said I'd like to say that this City is very grateful to Chief Williams.
27

28 Councillor Levatino said Chief Williams has done a great job with the City and he will be sorely
29 missed.
30

31 Councillor Sorg said I'd like to give my best wishes to the Chief and I hope he stays and continues
32 to be my constituent.
33

34 Councillor Small said I think the Chief has lived up to all his commitments to his department as well
35 as to the City.
36

37 Councillor Pedroza said I'd like to thank the Chief for his professionalism, friendship, and for being
38 there for the entire population.
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40 Councillor Silva said I'd like to tell the Chief "mission accomplished" and he has raised the standard
41 of our Police Department and took it to a whole new level. He is truly an asset to this community.
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b.) City Council

Councillor Smith said I'd like to thank Janice Jones for helping us set up presenters for the meeting on January 13th. I think they will help with the discussions regarding the transmission line.

I would like to point out that we missed the promotion of General Bingham and the welcome of Paul Mann at White Sands Missile Range. We were doing City business so I think they will understand why we were unable to be there.

This weekend I was able to attend with the Mayor the investiture of President Carruthers at New Mexico State University. It was an impressive ceremony and it is great that we have as many good things as we do going on in our community.

There was an email that went out regarding a Council meeting for District 1 that included a lot of State Legislators and I would like to get some clarification on it. I just want to be sure that we are not inviting all our State Legislators to that event.

Councillor Silva said it is only the State Legislators that represent that District.

Councillor Smith said this is our last meeting of the year and I want to wish a safe and Happy Holidays to everyone here.

Mayor Miyagishima said I just want to mention that a long time employee with our Codes Department, Mr. Sylvester Aguirre, died early last week and they are having his visitation today at Baca's Funeral Home from 3:00 to 5:00 p.m. and his burial will be tomorrow.

Councillor Levatino said I want to thank staff and Council for being so welcoming and I would like to wish everyone Happy Holidays.

Councillor Sorg said I would like to thank whoever is responsible for decorating our Chambers. This is the best it has looked since I've been here; it's very nice, very pretty.

Regarding the Climate Change Resolution that I passed out at the last meeting; I'd like to ask that we have a work session to discuss it because I have received a lot of questions on it.

I would like to wish everyone a Merry Christmas and a Happy New Year.

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Councillor Small said I want to wish everyone a happy and safe holiday season.

I also want to say that I am looking forward to the information regarding our strategic planning items to be brought forward to us early in 2014.

Councillor Pedroza said on Friday I had the opportunity to attend a Continuing Legal Education session and it was on the Wage Act. The main thing they discussed was that a new amendment to the Minimum Wage Act was approved so now damages for an employee involved in wage theft are tripled. So whatever amount the employee can prove he or she is shorted, they receive triple that amount. Also, there was an article in the Sun News regarding minimum wage and I think we are going to be addressing that issue in the next few months.

DRAFT

I'd also like to wish everyone Happy Holidays.

Councillor Silva said at the recent conference I attended in Seattle, they also spoke about local financial health and I had discussions regarding the minimum wage issue with many of the different leaders that attended that conference. Many of them stated that it was going to be an item that would be on their local agendas over the next couple of years. I would suggest that we form a Mayor's Ad-Hoc Committee to address the minimum wage issue and that we select members who would be affected by minimum wage changes.

I would like to thank Mr. Binns for everything that he has done for this community over the years.

The Doña Ana County Commissioners are considering a resolution to oppose the revenue reclassification of the Spaceport gross receipts taxes statewide which are suppose to go to the schools. I would hope that we can also pass a similar resolution before the session starts in January.

Regarding our permitting process, Robert Kyle gave a presentation earlier this year on upgrading our permit software and I don't know if it is going to be included in the upcoming budget for next year but I think it is worth taking another look at it as we move forward with our budget.

There is a Community Meeting tonight at 6:00 p.m. at City Hall in Chambers and there is another one on Tuesday night at the Home Builders Association and one on Thursday night at Booker T. Washington School in the cafeteria.

1 I would like to wish everyone a happy, safe and blessed holiday season.

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a.) Mayor

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Mayor Miyagishima said regarding the Spaceport resolution, I would support it.

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9 Regarding the Ad-Hoc Committee suggestion, Councillor Smith had already sent me an email
10 regarding the minimum wage issue so maybe Councillor Smith and Councillor Silva can come
11 up with some names for committee members.

12

13 Regarding the permitting software, I know it is very expensive software but Robert Garza did say
14 it was in the budget.

15

16 Robert Garza, City Manager said it isn't currently included in our budget but it will be included
17 in the budget process recommendations for next fiscal year.

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21 Councillor Small Moved to Adjourn and Councillor Sorg Seconded the motion.

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

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25 Council said "Aye."

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27 **Meeting Adjourned at 3:52 p.m.**