



City Council
of the
City of Las Cruces

Regular Meeting

August 18, 2014
1:00 P.M.

Council Chambers, City Hall

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MEMBERS PRESENT:

STAFF:

Mayor Ken Miyagishima
Councillor Miguel Silva, District 1
Councillor Greg Smith, District 2
Councillor Olga Pedroza, District 3
Councillor Nathan Small, District 4
Councillor Gill Sorg, District 5
Councillor 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. Mayor Miyagishima 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 presented a Proclamation to Johnny Flores and declared August 31, 2014 as Johnny Flores Day.

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?

2

3 Councillor Levatino said regarding Item 14, I just want to mention that I work at Steinborn with Mr.
4 Bulsterbaum who will be giving the presentation.

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8 **III. PUBLIC PARTICIPATION**

9

10 Paul Borunda, Member of the Public said the Utilities Department just seems to ad-lib the policies
11 and regulations that are voted on by the Council through agreements between them and the Utility
12 Board. They made my son pay a past balance for a bill that wasn't even in his name and they made
13 him pay a balance from an address on Pine Street which he paid under duress. This was a violation
14 of the policies and I feel we need to change the City Charter.

15

16 Robert Garza, City Manager said I have talked to the Utilities Director and we are going to have an
17 audit done on your account to make sure you were treated fairly.

18

19 Alice Anderson, Member of the Public said I just gave you an article on a women who can't use her
20 air conditioner because community cats urinate on it. In Albuquerque, if a citizen tries to give a stray
21 cat to an animal officer, the animal officer will not accept it but if they take it to the shelter, the
22 shelter will neuter it and then release it back to the area where it was a nuisance. The Albuquerque
23 program is a travesty. Please don't set up a community cat program here. Instead, set up a program
24 for responsible cat colony management which would allow for illegal cat feeders to move their cats
25 to enclosed private property or they could legalize their free roaming colonies by registering the
26 colony and following a few simple rules to make the colony shrink and vanish. What we are doing
27 now is not working; we are allowing the feeding of fertile feral cats which allows them to continue
28 to reproduce and cause more problems.

29

30 Mayor Miyagishima said many of you may be here for the minimum wage ordinance but this is only
31 a first reading and there won't be any public input on it.

32

33 Peter Osorio, Member of the Public said I'd like to express my concern about a procedure matter.
34 My immediate concern is with the transparency, efficiency and avoiding voter suppression. It would
35 be more efficient, transparent and would avoid voter suppression to have the minimum wage
36 question put on the county ballot instead of having a separate ballot for it. The cost for the City to
37 have a mail-in election would be very expensive and there is a greater chance of spoiling ballots. I
38 would suggest that none of you should place a greater expense on the people.

39

1 Jack Eichmann, Member of the Public said I just moved to this community in January and I must
2 commend the City and their services. Our experience has been extraordinary and we have no
3 intention of trying to make this community like our previous community.

4

5 Santiago Urieta, Member of the Public said I'd like to ask the City if they would build an archery
6 range?

7

8 Mayor Miyagishima said we are planning for future range construction in an area off of Sonoma
9 Ranch so we'll see if that is something that we might be able to add.

10

11 Councillor Small said there are plans for an archery range and money has been budgeted for it.

12

13 Ron Camuñez, Member of the Public said I received a call from a person who is remodeling his
14 karate building and an inspector went by today and denied his opening because of the lighting, even
15 though he had met the requirements of their last inspection. I would like for the inspectors to get
16 their act together because one inspector will say that you can't do that and the next week another
17 inspector will say that you can so I would urge Council to get more involved with their departments.

18

19 Mayor Miyagishima said I did receive an email from him but I believe the issue was with a balcony
20 and when you are dealing with a balcony, you need to make sure it is structurally sound.

21

22 Eli Guzman said Ron was speaking about me and I would like to be able to get in there by the end
23 of the week so I would appreciate anything you can do for me.

24

25 Robert Garza said we have met with Mr. Guzman and he is trying to do a very complicated project
26 by himself. We are working with him and we will continue to work with him but we can't allow him
27 to just do whatever he wants because this is a very complicated project and codes have to be met.

28

29 J.D. Rodriguez said I live in Mesa Development and there is a lot that needs to be done with the
30 changeover of the water company for this area. I would like to ask that Council publicizes everything
31 that is going on with this changeover on a step by step basis.

32

33

34

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

38

39 Mayor Miyagishima said Items 9 and 11 need to be removed from the Consent Agenda for
40 discussion.

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Councillor Silva Moved to Approve the Agenda as Amended and Councillor Small Seconded the motion.

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

V. CITY COUNCIL MINUTES

- * (1) Regular City Council Meeting of July 21, 2014
- * (2) Special City Council Meeting of July 23, 2014

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

- * (3) Resolution No. 15-019: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction to the Game Sports Bar & Grill for the Special Dispenser Permit Applications Submitted for the Sixth Annual Salsa Fest to be Held on August 23 and 24, 2014.
- * (4) Resolution No. 15-020: A Resolution Authorizing the Game Sports Bar & Grill to Continue With the Permitting Process to Allow for the Sale and Consumption of Alcoholic Beverages Within a Restricted and Secured Area During the Sixth Annual Salsa Fest to be Held on Main Street on August 23 and 24, 2014.
- * (5) Resolution No. 15-021: A Resolution Authorizing the Game Sports Bar & Grill to Continue With the Permitting Process to Allow for the Sale and Consumption of Alcoholic Beverages Within a Restricted and Secured Area at the Enchantment Classic Car Show to be Held September 20, 2014 at Young Park, 850 South Walnut Street, Las Cruces, New Mexico.
- * (6) Resolution No. 15-022: A Resolution Authorizing the City Manager to Execute a Contract with Doña Ana County for Rental of Voting Machines and Election Services for Use in Municipal Elections for a Three (3) Year Period.

- 1
- 2 *(7) Resolution No. 15-023: A Resolution to Authorize and Approve Submission of a Completed
- 3 Application for Financial Assistance and Project Approval to the New Mexico Finance
- 4 Authority (NMFA) for the Purchase of One (1) Spartan ERV Star Series Custom Pumper.
- 5
- 6 *(8) Resolution No. 15-024: A Resolution to Approve Amending Pay Tables for Fire Department
- 7 Battalion Chiefs and Deputy Chiefs and Police Department Sergeants, Lieutenants,
- 8 Commanders, and Deputy Chiefs.
- 9
- 10 *(10) Resolution No. 15-026: A Resolution Authorizing the City of Las Cruces to Accept
- 11 Equipment Valued at \$17,380.00 Purchased for the Police Department by the New Mexico
- 12 Department of Public Safety, Office of Emergency Management as Sub-Grantee of the 2013
- 13 New Mexico Department of Homeland Security Funding.
- 14
- 15 *(12) Resolution No. 14-15-001: A Resolution Awarding an Indefinite Cost, Indefinite Quantity
- 16 Price Agreement for Security Guard Services to Las Cruces Security Services, Inc. And
- 17 Security Concepts, Inc. Both of Las Cruces, New Mexico for Five (5) Years Subject to
- 18 Approved Budget Appropriations and Annual Renewal.
- 19
- 20 *(13) Resolution No. 14-15-031: A Resolution Awarding the Bid for the 2014-2015 Micro-
- 21 Surfacing Maintenance Project to Intermountain Slurry Seal, Inc., of Salt Lake City, Utah in
- 22 the Amount of \$746,235.00 Plus \$59,232.40 for New Mexico Gross Receipts Tax;
- 23 Authorizing the City Manager to Approve Change Orders in an Amount Not to Exceed
- 24 \$37,311.75, for a Total Project Authorization in the Amount of \$842,779.15.
- 25
- 26 *(14) Council Bill No. 15-004; Ordinance No. 2723: An Ordinance Approving a Zone Change
- 27 from C-3C/R-4C (Commercial High Intensity-Conditional/Multi-Dwelling High Density &
- 28 Limited Retail and Office-Conditional) to C-3C/R-4C (Commercial High Intensity-
- 29 Conditional/Multi-Dwelling High Density & Limited Retail and Office-Conditional) in Order
- 30 to Add Additional Permitted Uses to 4.4 ± Acres of Land Located at the Northwest Corner
- 31 of Mars Avenue and Del Rey Boulevard. Submitted by Kary Bulsterbaum on Behalf of
- 32 Shared Equity Holdings, LLC, Property Owner (Z2873).
- 33
- 34 *(15) Council Bill No. 15-005; Ordinance No. 2724: An Ordinance Approving a Zone Change
- 35 From M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) on 6.06 ± Acres
- 36 of Land Located at 960 S. Triviz Drive. Submitted by Laura Stull-Kaczmarek & Nancy
- 37 Abeyta on Behalf of Ann F. Stull, Property Owner (Z2874).
- 38
- 39
- 40

1 **VII. UNFINISHED BUSINESS**

2

3 (16) Resolution No. 15-016: A Resolution in Support of Interest Fee Caps on Small Loan
4 Companies in New Mexico. *(Tabled from August 4, 2014)*

5

6 Councillor Small Moved to Remove Resolution No. 15-016 from the Table and Councillor Smith
7 Seconded the motion.

8

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11 Mayor Miyagishima called for the roll on the Motion to Remove Resolution No. 15-016 from the
12 Table and it was Unanimously Approved. 7-0

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16 Councillor Pedroza said I heard from the Attorney General's office and they had issues with the last
17 "Whereas" so it might be good to amend it and remove the last "Whereas".

18

19 Senator Steve Fishman said I just want to make a clarification; I don't think it was the last
20 "Whereas" that you want to eliminate, it is the last paragraph that asks the Attorney General and the
21 Department of Regulations for enforcement. I also want to say that I am in support of that change.

22

23

24

25 Councillor Pedroza Moved to Amend Resolution No. 15-016 to remove paragraph two in roman
26 numeral two and Councillor Small Seconded the motion.

27

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29

30 Robert Garza, City Manager said if the concern is only with the Attorney General's office then I
31 would suggest that we not completely strike paragraph two, just the reference to the Attorney
32 General and leaving the urging of the other agencies.

33

34 Councillor Pedroza said that will be fine.

35

36 Mayor Miyagishima said we can just remove the motion and the second.

37

38 Esther Martinez-Carrillo, City Clerk said Mayor, we cannot remove the motion, we must vote on it
39 and then there can be another motion but this one has to be voted on first.

40

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3 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 15-016 to remove
4 paragraph two in roman numeral two and it Failed. 0-7

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8 Councillor Small Moved to Amend Resolution No. 15-016 to strike the “s” off of urges and remove
9 the Attorney General in paragraph two in roman numeral two and Councillor Sorg Seconded the
10 motion.

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14 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 15-016 to strike the
15 “s” off of urges and remove the Attorney General in paragraph two in roman numeral two and it was
16 Unanimously Approved. 7-0

DRAFT

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20 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-016 as
21 Amended and it was Unanimously Approved. 7-0

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

26
27 *(9) Resolution No. 15-025: A Resolution to Endorse the Nomination of the Frank O. Papen
28 Community Center to the State Register of Cultural Properties and the National Register of
29 Historic Places.

30
31 Councillor Smith Moved to Approve Resolution No. 15-025 and Councillor Small Seconded the
32 motion.

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35
36 Dr. Beth O’Leary, Professor Emerita of NMSU gave an overhead presentation and said I would urge
37 you to endorse this nomination of the Frank O. Papen Community Center to the State Register of
38 Culture Properties. This building was built in 1907 and Trost and Trost Architects designed the
39 original building. By us doing this, it is saying that Las Cruces and Mesilla Park find that this
40 property is significant. This will go before the Cultural Properties Review Committee in Santa Fe
41 hopefully in October or their next meeting in December.

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4 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-025 and it was
5 Unanimously Approved. 7-0

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9 *(11) Resolution No. 15-027: A Resolution Approving a Settlement Agreement Between the
10 Pueblos at Alameda Ranch Association, Inc., and the City of Las Cruces.

11

12 Councillor Silva Moved to Approve Resolution No. 15-027 Councillor Small Seconded the motion.

13

14

15

16 Councillor Silva said I had some trouble with the numbers in our packet. It states that certain street
17 repairs were made and it was paid out of our funds to replace some of these streets but the
18 background document states that we will be paying \$250,000 and the attachment states \$60,000. So
19 is it \$60,000 per street to total \$250,000?

20

21 Louis Grijalva, Public Works Administrator said the amount that is in the packet is just for the
22 surface treatment and once this agreement is approved then the City will be putting a project together
23 that includes repairing additional services in the subdivision, fixing sunk-in patches, and fixing
24 additional patches with the new services that we are replacing which will add up to approximately
25 \$250,000.

26

27 Councillor Silva said so today we are only approving the \$50,000.

28

29 Louis Grijalva said that is correct.

30

31 Councillor Silva said this reads a little bit different and I think there needs to be more explanation
32 so I think it would be best if we brought this to a work session and talk about the details of it.

33

34 Brian Denmark, Assistant City Manager said this is a unique project because this subdivision owns
35 the street and maintains it but we own the utilities under the street. We had utilities failing so our
36 Utility Department had to go in there and make corrections. They had to cut into the street to fix the
37 deficiencies so essential we have aged the street, we reduced the service life of the street. The
38 neighborhood association stated they were going to file a claim to have the City fix the road because
39 we aged their street by cutting into it. City staff worked out an agreement with them where we would
40 fix the utility deficiencies, repair the patches and then do an overlay application on it.

1
2 Councillor Sorg said I understand what is happening here but if we approve this, will the City be
3 responsible for any street repairs in the future?

4
5 Brian Denmark said the agreement has specific language where the City would not be responsible
6 and the street will go back to the Homeowners Association.

7
8 Councillor Small asked does this funding come from the Street Maintenance Fund or the General
9 Fund or other?

10
11 Robert Garza said it is coming from the Utility Fund.

12
13 Councillor Silva said I think we need to review our policy on the patching of roads during a work
14 session.

15
16 Douglas Johnson, Member of the Public asked is it possible that this situation can happen again and
17 again on private roads?

18
19 Robert Garza said we believe this is probably the last one out there.

20
21 -----

22
23 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-027 and it was
24 Unanimously Approved. 7-0

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27
28 (17) Resolution No. 15-028: A Resolution Authorizing the City of Las Cruces to Designate a
29 Voting Delegate and an Alternate to Attend the Annual Business Meeting of the 57th Annual
30 Conference of the New Mexico Municipal League on Thursday, August 28, 2014.

31
32 Councillor Smith Moved to Approve Resolution No. 15-028 Councillor Sorg Seconded the motion.

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35
36 Councillor Small Moved to Amend Resolution No. 15-028 to select Councillor Silva as the Voting
37 Delegate and Councillor Smith as the Alternate and Councillor Levatino Seconded the motion.

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1 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 15-028 to select
2 Councillor Silva as the Voting Delegate and Councillor Smith as the Alternate and it was
3 Unanimously Approved. 7-0

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7 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-028 as
8 Amended and it was Unanimously Approved. 7-0

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12 (18) Council Bill No. 15-003; Ordinance No. 2722: An Ordinance Repealing LCMC 1997,
13 Chapter 28, Article VII, Known as the Water Conservation Ordinance, In Its Entirety and
14 Enacting a New LCMC 1997, Chapter 28, to Also be Known as the Water Conservation
15 Ordinance.

16
17 Councillor Small Moved to Approve Council Bill No. 15-003; Ordinance No. 2722 Councillor Smith
18 Seconded the motion.

19
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21

22 Leslie Kryder, Water Conservation Coordinator gave an overhead presentation and said we are
23 mandated by the State Engineer to have a Water Conservation Program as a condition for our water
24 permits. The purpose of our program is to implement water conservation activities and help ensure
25 there is enough water for the future needs of the city. We believe this change to the ordinance will
26 provide us with more flexibility to respond to changing conditions such as drought or the outcome
27 of litigations.

28
29 Marcy Driggers, Assistant City Manger continued the overhead presentation and said the primary
30 purpose for changing the ordinance is to take the enforcement regulations from the existing
31 ordinance and have the Utility Board convert the existing regulations into Board approved
32 regulations. To show you the types of regulations that the Utility Board will be considering, we've
33 attached proposed regulations as "Attachment B" to the ordinance packet. The Utility Board has
34 reviewed these regulations so they would know what they would be asked to do if Council approves
35 this change. Most of the regulations are identical but the big difference is the administrative avenue
36 that staff is recommending to be included because there is a perception that there is water wasting
37 in the city. We only use about 6% of our pumpage but there is the perception that we are a much
38 bigger pumper of water and it doesn't take much water running down the sidewalk to create that
39 perception. The City's Codes Department are the ones that currently enforce specific regulations that
40 are included in the existing ordinance but they have an incredible burden of enforcement

1 responsibilities and it is hard to observe the occurrence of the actual water wasting. They have to
2 observe the violation in order to cite the perpetrator and if they do see it and cite the perpetrator and
3 if the perpetrator doesn't plead guilty then Codes is tasked to go into Municipal Court for criminal
4 enforcement. The proposed regulations in the revised ordinance keeps the Municipal Court
5 enforcement in play only if it is necessary. The staff observes violations then there will be an attempt
6 to secure compliance and if they can't secure voluntary compliance then the proposal is to have
7 administrative fees put onto the utility bill for that property which the court criminal fees are much
8 higher than the administrative fees. This is meant to secure compliance to try to more effectively
9 curtail the public's perception that the City is sanctioning water wasting.

10

11 Councillor Small said water is increasingly scarce and is deeply important to our entire region. There
12 is a belief that by allowing the administrative interaction, there would be stronger water conservation
13 opportunities within the city.

14

15 Leslie Kryder said I do believe that it would make stronger water conservation opportunities within
16 the city.

17

18 Councillor Small asked if this is approved today, is there an expectation that the Utility Board will
19 be able to act before the Legislative Session?

20

21 Marcy Driggers said the time line hasn't been look at yet but we are hoping to be bringing the
22 proposed regulations and public input to the Utility Board this fall and the Legislative Session begins
23 in January 2015.

24

25 Councillor Sorg said we have all been approached about water wasting and I'm glad that you pointed
26 out the amount of water that is wasted isn't as great as people think.

27

28 Councillor Pedroza said there are going to be many other things that will become necessary, not just
29 in terms of the perception but the actual waste of water.

30

31 Councillor Silva said so basically we are giving the Utility Board the power of enforcement; correct?

32

33 Marcy Driggers said yes, but the Municipal citations will still exist and people can still call the
34 Codes Department if they see water wasting.

35

36 Councillor Silva said I have some difficulty with this ordinance because if you are washing your car
37 on a sloped driveway and some reported it, then you would magically receive a fee for wasting water
38 on your utility bill. Is that correct?

39

1 Marcy Driggers said no, under the existing ordinance you would get a codes officer knocking on
2 your door and you'd be issued a code citation which would take you to the Municipal Court process
3 if you didn't pay the citation. As proposed, Ms. Kryder would be knocking on your door and try to
4 get you into compliance and if she is not able to do so, for the first offense there would not be any
5 add-on to your bill, but if there was a second offense, then there would be a \$20 assessment to your
6 current utility bill as opposed to a \$100 citation fine in Municipal Court. We are trying to get
7 compliance to reduce the perception that somehow by us not curing this wasting that we are
8 promoting or encouraging the wasting of water.

9

10 Councillor Silva said I'm all for simplifying the process and reducing the fines. Another issue I have
11 is that we are giving the Utility Board total power to create a Water Conservation Plan and they'd
12 be able to create it without the approval of City Council. I have issues with us giving that type of
13 power to a non-elected board so I think we are giving them too much power. I think a little more
14 thought needs to go into this but as it is now, I have a difficult time supporting it.

15

16 Councillor Smith asked does part of the autonomy that we are talking about with this particular
17 board stem from the fact that our Utility Department is an enterprise that is moving to being a
18 separate entity?

19

20 Marcy Driggers said the Utility Board operates within the powers given to it by the bylaws which
21 have been approved by the City Council.

22

23 Jorge Garcia, Utilities Director said the current ordinance has policy and action items all imbedded
24 into one document so with this proposed ordinance, we've separated the items that are on the current
25 ordinance and put the action items in a regulation. The Water Plan itself is very administrative, you
26 follow a template from the State Engineers, it is a very technical document that follows exactly what
27 the State Engineer wants in it.

28

29 Councillor Small said I am comfortable with us moving ahead with this ordinance today.

30

31 Councillor Silva said this board was something that was created prior to most of us being on council
32 and it is something that I've always had difficulty with. What happens when you receive a
33 complaint?

34

35 Leslie Kryder said I usually contact the Codes Department which they check it out and try to get
36 compliance. I meet with the Codes Department once a month to get a status update on the reports
37 that we have received.

38

39 Councillor Silva asked is the problem with enforcement? How can you prove they violated this when
40 you get a call the day after it happens and you follow-up on it a few days after that?

1

2 Leslie Kryder said that concern was raised earlier and if you look at the proposed regulations, we
3 make a distinction between a reported violation and an observed violation so if someone reports
4 something to us then we would have the opportunity to go and talk with them to let them know what
5 was reported and try to get compliance. If the violation is observed by city staff then it would become
6 an observed violation and would follow the violation steps.

7

8 Councillor Silva asked what happens if the City violates this ordinance?

9

10 Leslie Kryder said we let them know there is a problem and ask them to fix it.

11

12 Councillor Silva asked do we fine them?

13

14 Leslie Kryder said we do not currently fine them.

15

16 Councillor Silva said that is something that we need to figure out because a lot of the reports I
17 receive are with parks being over watered and they want to know why they have to abide by the
18 ordinance but the City doesn't?

19

20 Leslie Kryder said just like people sometimes have broken sprinklers, the City sometimes has them
21 as well and we do follow a similar process for both cases. I do get a response whenever I contact the
22 Parks and Recreation Department

23

24 Councillor Silva said I do have full confidence in the two councillors that serve on that board and
25 I'm sure that if they were to do something that I think would burden the City, that they would bring
26 it forward to us.

27

28 J.D. Rodriguez, Member of the Public said water is something that we need to properly conserve and
29 properly use. There is too much to consider here so I would recommend that you table this item.

30

31 Councillor Levatino said I want to thank Marcy and Jorge for meeting with me to address some of
32 my concerns which one was that I didn't see a distinction between residential and commercial, and
33 they spent two hours of their day explaining everything to me and helping me understand it.

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37 Mayor Miyagishima called for the roll on the Motion to Approve Council Bill No. 15-003;
38 Ordinance No. 2722 and it was Unanimously Approved. 7-0

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IX. BOARD APPOINTMENTS

Mayor Miyagishima appointed Harvey W. Gordon (District 6 At-Large) to the Planning and Zoning Commission.

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

(19) Council Bill No. 15-006; Ordinance No. 2725: An Ordinance Approving a Zone Change for a 50 ± Acre Portion of a 350 Acre Parcel 02-39551 Located at 100 N. Sonoma Ranch Blvd. From H (Holding) to C-3C (High Intensity Commercial, Conditional). Submitted by the City of Las Cruces. Property Owner, U.S. Bureau of Land Management (Z2875).

Mayor Miyagishima and Council agreed to bring this item back.

(20) Council Bill No. 15-007; Ordinance No. 2726: An Ordinance Enacting a New Article in Chapter 14 – Human Rights, of the Las Cruces Municipal Code, Setting Minimum Wages for Certain Employees Working Within the City Limits of Las Cruces; Providing for Indexing the Minimum Wage to Inflation; Establishing Procedures for Enforcement.

Councillor Smith said we already have passed an ordinance pertaining to minimum wage being set at \$8.50 in January 2016 so what happens to that ordinance if we approve or the voters pass this ordinance?

Harry (Pete) Connelly, City Attorney said then we have two ordinances and there is no conflict with the ordinances until July 2016 so prior to that time, I would recommend that you reconcile any conflicts you may have.

Councillor Smith asked whether the Council approves or the voters pass this ordinance, what capacity does the council have to amend or otherwise modify such an ordinance after it's been voted on?

Harry (Pete) Connelly said the City Council can do as it can with any other ordinance; it has control over the ordinances.

Councillor Sorg said I have a question for County Clerk Lynn Ellis regarding the election.

- 1 Harry (Pete) Connelly said the questions that Council asks can only be directed to City staff.
2
- 3 Councillor Sorg asked if it is necessary to have an election, can this ordinance be combined with the
4 November 4th General Election?
5
- 6 Harry (Pete) Connelly said if the City, County and Secretary of State enter into a Memorandum of
7 Agreement, meeting all the conditions of the certification to the ballot, it perhaps can be.
8
- 9 Councillor Levatino said the title states that it is enacting a new article in Chapter 14, Human Rights
10 of the Las Cruces Municipal Code, is that the appropriate place for this to be?
11
- 12 Harry (Pete) Connelly said that is where the drafters placed it and it is accepted by us.
13
- 14 Councillor Levatino said on page 403, number one, it states that there is an "Exhibit A" attached
15 which is referred to as the Las Cruces Minimum Wage Ordinance, but there is no reference in this
16 to the ordinance that already exists. Should there have been reference to it?
17
- 18 Harry (Pete) Connelly said I guess it is a question of style. The ordinance that was submitted to the
19 City must be accepted by the City and it is to either be passed or failed in it's entirety. There is no
20 requirement that they refer to any other ordinance so it is just a question of their style.
21
- 22 Councillor Small said the question was submitted to the City prior to the passage of our existing
23 ordinance; correct?
24
- 25 Harry (Pete) Connelly said yes, the process had started prior to your enactment of the first Minimum
26 Wage Ordinance.
27
- 28 Councillor Small said once it is submitted, they can't change it; right?
29
- 30 Harry (Pete) Connelly said the provision in the Charter provides that the affidavit that is submitted
31 and accepted by the Clerk which is brought to you, must contain the proposed initiative ordinance and
32 once that is done then that is the ordinance that comes before you to pass or fail.
33
- 34 Councillor Small asked has there been communication from the County Clerk who administers the
35 November 4th General Election, that with sufficient spacing and other requirements, a combined
36 election is possible?
37
- 38 Harry (Pete) Connelly said yes.
39
- 40 Councillor Pedroza asked when will we hear this ordinance?

1
2 Mayor Miyagishima said on September 8th.

3
4 Mayor Miyagishima and Council agreed to bring this item back.

5
6 -----

7
8 **XI. CITY COUNCIL MEMBER BOARD REPORTS**

9
10 There were no City Council Member Board Reports given.

11
12 -----

13
14 **XII. GENERAL DISCUSSION**

15
16 b.) City Council

17
18 Councillor Silva said I would like to request a couple of updates; one is for the Comp Plan and the
19 other one is for the Utility Board. I have a lot of concerns with the Utility Board which they just went
20 through a rate case. They can go out and hire consultants and I'm not sure we even have them
21 budgeted or if they have an operating account. It would be nice if we could get a general overview
22 of their structure, purpose and review their bylaws.

23
24 -----

25
26 Councillor Pedroza said I had some concerns when I was first appointed to the Utility Board but at
27 this point, all my concerns have been satisfied.

28
29 In the paper all this week was information regarding the incident in Ferguson, Missouri and I
30 received an email last night from a master degree student regarding the militarization of the police
31 departments. We have seen this type of situation in Deming also. I think we all need to keep an eye
32 on that and make sure that our citizens aren't treated like enemy combatants.

33
34 Mayor Miyagishima said if you look back over the past few years, the bad guy's weapons have
35 become more advanced so I think we're seeing the police trying to keep up with them.

36
37 -----

38
39 Councillor Small said I'd like to thank Police Chief Montoya on his leadership and the City
40 administration for maintaining a laser focus on the fact that there is no contract between the

1 community and its police force so trust is a very important key. I think the balance between
2 appropriate arms for a police force does bear discussion.

3

4 School is back in session so it would be great to have a report on the Walk and Ride to School
5 Program.

6

7 I would be interested in an update on some of the manufacturing projects and other redevelopment
8 that has chosen to locate close to the Transit Intermodal Center. I attended a trade show and there
9 are tremendous positive economic opportunities that I would like to give a presentation about at our
10 first meeting in September.

11

12

13

14 Councillor Sorg said with us talking about the Utility Board, I want to remind you that we do have
15 a Ratepayers Advisory Committee and they have the responsibility of taking the ratepayers opinions
16 and comments about any rate case that we may have. I think that is something that needs to be more
17 publicized. I also want to compliment Dr. Garcia on how he runs our Utility Department.

18

19 I want to compliment Ground Works Doña Ana for work on our city parks and they do many things
20 for conservation that is supporting our Sustainability Plan.

21

22

23

24 Councillor Smith said I attended a funeral for Emily Wells who was a local school teacher and
25 previously she was a State Representative as well as a swimming instructor when she lived in
26 Oklahoma. It is important for people to learn how to swim so where can people get swimming
27 lessons?

28

29 Mark Johnston, Public Works Director said there are various opportunities to learn how to swim like
30 at our Aquatics Center and at Frenger Pool. Also, NMSU, Desert Hills and the Elks Club are some
31 other options.

32

33 Councillor Smith asked how much longer are we going to be able to use Frenger?

34

35 Mark Johnston said we have been keeping that pool running by piece milling it for the last several
36 years so it might last two or three more years or maybe even ten years.

37

38 Councillor Smith said regarding the preservation ordinance, I looked at our work session schedule
39 and I don't see anything on there regarding that moving forward so when might we see a preservation
40 ordinance presented to us?

41

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1 Robert Garza, City Manager said we did have a work session on that topic late last year and we did
2 not receive an unanimous consent from Council to proceed with the development of an ordinance
3 but we could have a follow-up work session on that topic.

4
5 Councillor Smith said I would appreciate it if we could take that question up again.

6
7 I have a number of questions come up regarding some of the abandoned buildings that we have in
8 Las Cruces so perhaps we can assess what can be done about them in a work session.

9
10 Regarding the Convention and Visitors Bureau and the Amador, do we know where we might be
11 relocating them?

12
13 Robert Garza said we don't have that report done; as you recall, we had five different possible
14 locations and staff is doing a full assessment on each of them but we will inform of you as soon as
15 it is completed.

DRAFT

16
17
18
19 a.) Mayor

20
21 Mayor Miyagishima said I received an email stating that perhaps a member or two of City Council
22 was circulating petitions for the minimum wage ordinance and I don't think that would preclude you
23 from voting but I want to get clarification from Pete. I really don't have a problem with it but I don't
24 think that is probably the best thing for you to do in the future because you are really supposed to be
25 bias for the public.

26
27 Harry (Pete) Connelly, City Attorney said there was a decision given by the New Mexico Court of
28 Appeals in a case that sets up bias, prejudice, and conflict which I will be happy to share it with
29 Council.

30
31 -----
32
33 c.) City Manager

34
35 Robert Garza, City Manager said later this week, our State Lobbyist Larry Horan will be here and
36 he and I will start mapping out our legislative strategies so I will be visiting with each of you to
37 get a clear understanding of the things you're thinking about.

38
39 Next Monday you have a work session on the animal ordinance and we added a second item to
40 discuss cat sanctuaries.

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Page 19

1
2 The following Monday is Labor Day so we don't have a Council meeting that date but we will
3 have it on Tuesday. Then we will have a special meeting that following Monday which is
4 September 8th and a work session following that meeting.

5

6

7

8 Councillor Silva Moved to Adjourn and Councillor Smith Seconded the motion.

9

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

11

12 Council said "Aye."

13

14 **Meeting Adjourned at 4:03 p.m.**

DRAFT