



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

Regular Meeting

November 3, 2014

1:00 P.M.

Council Chambers, City Hall

MEMBERS PRESENT:

STAFF:

- 14 Mayor Ken Miyagishima
- 15 Councillor Miguel Silva, District 1
- 16 Councillor Greg Smith, District 2
- 17 Councillor Olga Pedroza, District 3
- 18 Councillor Nathan Small, District 4
- 19 Councillor Gill Sorg, District 5
- 20 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 to the teachers and faculty of LCPS for their Community Gardens Program.

Councillor Levatino presented a Proclamation and declared November 17, 2014 as Las Cruces Prematurity Awareness Day

Mayor Miyagishima and Councillor Levatino presented a Proclamation to Tony Benitez and declared November 18, 2014 as Daisaku Ikeda World Peace Day.

1
 2 **II. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC**
 3 **SECTION 2-27(E)(2).** *At the opening of each council meeting, the chairperson shall ask*
 4 *if any member of the city council, city manager, or any member of the city staff has any*
 5 *known conflict of interest with any item on the agenda.*

6
 7 Mayor Miyagishima asked if anyone had any conflicts with anything on the agenda?

8
 9 There were no conflicts mentioned.

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12
 13 **III. PUBLIC PARTICIPATION**

14
 15 Larry Tucker, Member of the Public said the light post still blocks the sidewalk and it has been over
 16 five months since I talked to you about it.

17
 18 Mayor Miyagishima said I believe that one is owned by El Paso Electric and they haven't moved it.

19
 20 Larry Tucker said you told me that the sidewalks belong to the people who owned the property but
 21 those sidewalks belong to taxpayers.

22
 23 Mayor Miyagishima said the area you were talking about is undeveloped property so when they
 24 actually build a sidewalk, then it becomes the City's property.

25
 26 Jack Valencia, Member of the Public said I'm with the South Central Regional Transit District and
 27 I'd like to tell you where we've been, where we are, and where we can go with our transit. The
 28 demonstration project created 70 new stops, and 50 of them are south of Las Cruces, created routes
 29 to health care and education facilities, but the system falls shorts of a full build out. We are
 30 forecasting that in October there will be approximately 3,000 rides and we would like to maintain
 31 that level of growth. That creates approximately 36,000 rides in annualized rides and it would be
 32 easy to achieve an increase to 75,000 with the first year of funding.

33
 34 Councillor Silva said point of order; given that it is so close to an election, this is sounding like a
 35 sales pitch for the tax. We have heard a lot of this in the past and I hope he is successful in his
 36 endeavor but to me, this sounds like politicking for his cause.

37
 38 Councillor Small said this is the same presentation that was given to the County recently and it was
 39 not deemed out of order even though there is a polling site there. It is based on factual data and he
 40 is probably in the best place to give that information.

1
2 Councillor Silva said there is a difference between what has happened in the past and what could
3 happen in the future. I've heard a lot about future generated revenues but what they do at the County
4 is what they do at the County and the Mayor could at least forewarn Mr. Valencia about politicking
5 at the dais.

6
7 Councillor Levatino asked when did you speak before the County Commission?

8
9 Jack Valencia said last Tuesday.

10
11 Councillor Levatino said that was a little bit away from Election Day. I am uncomfortable with
12 continuing with this right now but any information you want to give us about the past, I'm not
13 comfortable with that either but I would accept it; but going into what you think will happen in the
14 future or you hope will happen in the future, I don't think that is appropriate. Could this be given
15 next week; why today?

16
17 Mayor Miyagishima said I will allow him to talk as long as he is talking about city transit.

18
19 Jack Valencia said the Roadrunner Transit started in 1986 and it had three city routes and there were
20 eight routes by 1996. In 2008, the eight routes were reconfigured so it would be on half hour
21 increments instead of the forty to eighty minute increments on Monday thru Saturday. There have
22 been additional service hours since 1996. About 1/3 of the operating cost comes from federal grants
23 and the rest of the funds come from allocated transfers from the City's general fund and gas taxes.
24 There are no dedicated sources going to transit which is where a partnership with the Regional
25 Transit District could contract for additional services which the services most in demand are frequent
26 services, service to new areas, extended Saturday service, extended services to things like retail
27 service industries, and Sunday service. These things are included in the City's long range Transit
28 Plan and new revenues could provide these transit...

29
30 Councillor Silva said point of order regarding new revenues.

31
32 Mayor Miyagishima said I am going to let him finish.

33
34 Jack Valencia said this is what was addressed in the long range Transit Plan, trying to seek new
35 revenue sources in order to provide the recommended outcomes of your long term and short term
36 Strategic Plans.

37
38 Councillor Smith asked what are some of the perceived benefits of the Regional Transit System?

39
40 Jack Valencia said depending upon your level of commute, there is a potential savings of between

1 \$6,000 and \$9,000 a year.

2

3 Councillor Small said it seems that the three main areas for increased transit usage are for
4 employment, education, and healthcare services. Can you tell us if one of those is sort of leading the
5 others or all they all about equal reasons for rider ship?

6

7 Jack Valencia said I would probably say that healthcare is number one.

8

9 Frank Bryce, Member of the Public said I am the President of the Humane Society of Southern New
10 Mexico and we are now providing cat and dog microchipping for \$6.35. You can contact us at 647-
11 1416.

12

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15 **IV. READ CLOSED MEETING STATEMENT**

16

17 Mayor Miyagishima read a closed meeting statement and said the Las Cruces City Council met in
18 Closed Session at 3:15 p.m. on October 20, 2014. The following members were in attendance:
19 Mayor Miyagishima, Councillor Silva, Councillor Smith, Councillor Pedroza, Councillor Small,
20 Councillor Sorg, Councillor Levatino, Acting Assistant City Manager David Dollahon, Assistant
21 City Manager Mark Winson, City Attorney Harry (Pete) Connelly, Deputy City Attorney Rusty
22 Babington, and Acting Transportation Director David Maestas. The meeting adjourned at 3:29 p.m.
23 and only the limited items stated in the posted notice were discussed which was the pending
24 litigation in the matter of Judy Kirschner v. Analisa Ortega and the City of Las Cruces, Third Judicial
25 District Court No. D-307-CV-2012-02262.

26

27

28

29 **V. ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY**
30 **AN ASTERISK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON**
31 **BY ONE MOTION.**

32

33 Mayor Miyagishima said Item 4 and Item 7 need to be removed from the Consent Agenda for
34 discussion.

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38 Councillor Smith Moved to Approve the Agenda as Amended and Councillor Sorg Seconded the
39 motion.

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

VI. CITY COUNCIL MINUTES

*(1) Regular City Council Meeting of October 6, 2014

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

*(2) Resolution No. 15-076: A Resolution to Authorize and Approve Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority (NMFA) for the Purchase of Solid Waste Collection Vehicles.

*(3) Resolution No. 15-077: A Resolution Authorizing the City of Las Cruces, on Behalf of Its Parks and Recreation Department, to Approve a Memorandum of Agreement With the New Mexico Department of Health (NMDOH), Providing Grant Funds in the Amount of \$25,000.00, for the Healthy Kids Healthy Communities Initiative, to Authorize the City Manager's Signature on the Memorandum of Agreement, and to Amend the City's Adopted FY 2015 Budget.

*(5) Resolution No. 14-15-030: A Resolution Approving An Indefinite Quantity, Indefinite Cost Price Agreement for Road Structures and Improvements to Renegade Construction LLC., Warren Construction Inc., and Highland Enterprises Inc., on an As-Needed Basis for a Period of Up to Five Years Subject to Annual Renewals and Approved Budget Appropriations.

*(6) Resolution No. 14-15-081: A Resolution Authorizing the Purchase of One (1) Spartan ERV Star Series Custom Pumper for the Fire Department from Spartan ERV, North Brandon, South Dakota and to Adjust the FY 2015 Budget.

*(8) Council Bill No. 15-013; Ordinance No. 2732: An Ordinance Approving a Zone Change From C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) on 11.314 ± Acres of Land Located at 1240 El Paseo Road. Submitted by Zoe Development IV, LLC. on Behalf of Norton S. Karno, Property Owner (Z2879).

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2 *(9) Council Bill No. 15-014; Ordinance No. 2733: An Ordinance Approving a Zone Change
3 From C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) on 0.795 ±
4 Acres of Land Located at 1311 Avenida de Mesilla. Submitted by Borderland Engineers and
5 Surveyors, LLC. on Behalf of Central Park West NY, LLC, Property Owners (Z2880).

6
7 *(10) Council Bill No. 15-015; Ordinance No. 2734: An Ordinance Authorizing the Execution and
8 Delivery of a \$443,325 Loan Agreement to Purchase a New Fire Pumper Truck and to Be
9 Secured by State-Shared Gross Receipts Tax Revenues.

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

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15 *(4) Resolution No. 15-078: A Resolution Approving a Home Investment Partnerships Act
16 (HOME) Recoverable Grant Agreement Between the City of Las Cruces and Mesilla Valley
17 Habitat for Humanity (MVHFH) for Acquisition and New Construction of Affordable
18 Housing Units, and to Adjust the FY 2015 Budget.

19
20 Councillor Small Moved to Approve Resolution No. 15-078 and Councillor Pedroza Seconded the
21 motion.

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24
25 Councillor Small said we know that we get limited funds for affordable housing so can you tell me
26 why Mesilla Valley Habitat for Humanity was the best partner in this case?

27
28 Jan Lauterbach, Community Development Affordable Housing said the City provides annual
29 applications for funding for our home funds and our approved 2013-2014 Action Plan allocated
30 funding for Habitat for Humanity for single family development.

31
32 Councillor Small said for the next billing cycle, is staff envisioning the same model to recommend
33 to Council?

34
35 Jan Lauterbach said actually, this coming year is designated as a multi-family year; 2014 was for
36 single family.

37
38 Councillor Small said if we were to consider changing that cycle, when would we be able to consider
39 it?

40

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1 Robert Garza, City Manager said they bring the resolution forward in May of every year so next May
2 would be your opportunity.

3

4 Vera Zamora, Acting Senior Planner said it actually wouldn't be in 2015 because this is in our
5 Consolidated Plan which runs for five years so it would be 2016 when the Consolidated Plan is
6 prepared and approved.

7

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9

10 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-078 and it was
11 Unanimously Approved. 7-0

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15 *(7) Council Bill No. 15-012; Ordinance No. 2731: An Ordinance Approving a Zone Change
16 From A-2 (Rural Agriculture) to M1/M2 (Industrial Standard) Designation for a 34.6 Acre
17 Site Consisting of Parcels 02-02576 and 02-00506 Located at 2035 W. Amador Avenue.
18 Submitted by the Property Owner, Trinity Properties, LLC/Three Saints, LLC. (Z2878)

19

20 Councillor Sorg Moved to Approve Council Bill No. 15-012; Ordinance No. 2731 and Councillor
21 Small Seconded the motion.

22

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24

25 Councillor Small said I would like to see the presentation for this resolution.

26

27 Susana Montana, Planner gave an overhead presentation and said this is an approximately 35 acre
28 site that faces Amador and is very close to 17th Street. It is currently zoned A-2 Rural Agriculture
29 and it has been vacant for three years. The owner is seeking to sell the site to a light industrial user
30 so rezoning the site to M1/M2 would bring the property into compliance with the 2001 Zoning Code
31 and allow light industrial development of the property.

32

33 Councillor Small said I'm curious about whether there are any linkages to Burn Lake in the
34 proximately of this site because those types of connections and improvements are very important to
35 me and to the residents.

36

37 Susana Montana said we did send this proposal to Parks and Recreation for their review and they did
38 not envision a linkage between this industrial site and Burn Lake. We also sent the application to
39 EBID and they stated that they have an existing culvert and they didn't want heavy trucks to use that
40 culvert crossing because they could damage it.

1

2 Robert Garza, City Manager said there is some connection to this property but it's not as direct as
3 you might be asking about and there are plans at some point to look at moving the access road to
4 Burn Lake so it aligns with 17th Street.

5

6 Councillor Small said that realignment would make for easier access and I understand the issue with
7 weight of the trucks but there could be a pedestrian crossing that could serve as a low intensity
8 connection.

9

10 Susana Montana said the culvert does exist for small cars so it could be used for pedestrian use as
11 well for access to Burn Lake and the park.

12

13 Mike Johnson, Consultant Engineer said this is simply a rezoning case at this time and there is no
14 potential buyers for the property but I think this would be a relevant discussion to have at that time.

15

16 Councillor Smith said I have no reason to oppose this today but I want to point out that given the
17 agricultural history and the quality of the land in question, I would like for us to consider the value
18 of agriculture lands in our community. So, as we continue to move forward, I would like for that to
19 remain a consideration as we consider how we become an urban community that includes its
20 agricultural past and heritage.

21

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24 Mayor Miyagishima called for the roll on the Motion to Approve Council Bill No. 15-012;
25 Ordinance No. 2731 and it was Unanimously Approved. 7-0

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29 (11) Resolution No. 15-079: A Resolution Approving a Cooperative Project Agreement and
30 Accepting a Grant From the New Mexico Department of Transportation (NMDOT), for the
31 Construction of the La Llorona Trail Improvements Project in the Amount of \$384,480.00,
32 With a Required Match Amount of \$65,520.00 and to Amend the Fiscal Year 2014/2015
33 Budget.

34

35 Councillor Small Moved to Approve Resolution No. 15-079 and Councillor Smith Seconded the
36 motion.

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40 Louis Grijalva, Project Development Administrator gave an overhead presentation and said we were

1 awarded TAP (Transportation Alternative Program) funding through the MPO (Metropolitan
2 Planning Organizations) and RPO (Regional Planning Organizations). The City was offered the TAP
3 funding for the La Llorona Trail Improvements Project and the grant requires a 14.56% match from
4 the City in the amount of \$65,520 which gives a total funding amount of \$450,000. We would be
5 reconstructing 1.1 miles of the existing trail from La Llorona Park north to the Las Cruces Outfall
6 Channel Trail and the existing gravel trail surface will be removed and replaced with permeable
7 durable surface which is pervious concrete, so the storm water can recharge the water table. We will
8 also include additional trail amenities such as benches, trash cans, and dog waste stations.

9

10 Councillor Small said this is very exciting and I wanted to know, is this the first use of pervious
11 concrete by the City?

12

13 Louis Grijalva said yes.

14

15 Councillor Small said given the usage of this area by the public, there is the potential to look at La
16 Llorona Park as a good resource.

17

18 Councillor Sorg said I think the entire Council received an email from someone stating how unhappy
19 they were with that area so this is really good timing. How much does the pervious concrete cost?

20

21 Louis Grijalva said it costs approximately 20% more than regular concrete but it is more sustainable
22 and it improves our Storm Water Management Program.

23

24 Councillor Pedroza said I think it is really exciting to have these trails almost connected. I think we
25 need to look at getting the information out about this trail so everyone knows where they can go.

26

27 Louis Grijalva said there are various maps available on our website.

28

29 Councillor Silva said regarding the cost, 1.1 miles for \$465,000, doesn't that seem a little out of
30 order?

31

32 Louis Grijalva said until the contractors around town get comfortable with installing this new
33 product, it will seem a little high but it is within reason.

34

35 Robert Garza, City Manager said just to put it in perspective, on average, we pay about a million
36 dollars a mile to build city streets.

37

38 Councillor Levatino said I want to compliment our Parks and Rec Department on the parks and
39 walking trails booklet that they put together. It is a really good source of information.

40

1 Neil Goodell, Member of the Public said this type of concrete has been around for a long time so
2 why isn't it also being used for the roads?

3

4 Louis Grijalva said it is new to the City so right now we are talking baby steps but maybe it can be
5 used in the future in limited areas.

6

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9 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-079 and it was
10 Unanimously Approved. 7-0

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14 (12) Council Bill No. 15-009; Ordinance No. 2728: An Ordinance Repealing Las Cruces
15 Municipal Code 1997, Chapter 7, Animals, Article I Through Article V, in Its Entirety and
16 Enacting New Las Cruces Municipal Code 1997, Chapter 7, Animals, Article I Through
17 Article IV and Repealing Las Cruces Municipal Code 1997, Section 19-127.

18

19 Councillor Smith Moved to Approve Council Bill No. 15-009; Ordinance No. 2728 and Councillor
20 Small Seconded the motion.

21

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23

24 Marcy Driggers, Assistant City Attorney gave a verbal presentation and said a woman in
25 Albuquerque sued the Albuquerque Animal Director and the Mayor seeking to have Albuquerque's
26 TNR program struck down by the court. She used a Petition for Mandamus which is an order from
27 a court to a governmental entity to do something specific. On October 23, 2014, Judge Malott struck
28 down the petition and he found that Albuquerque had a number of means to address feral cats which
29 was a health and safety issue, and the remedy that they selected was acceptable so therefore he was
30 not going to compel Albuquerque to cease and desist its feral cat program. Our Animal Services
31 Center has a Board of Directors and a few years ago that board wanted the City and County to have
32 comparable animal ordinances so they put together some members of the public and tasked them
33 with coming up with a generic ordinance that could be adopted by both governmental entities. That
34 draft ordinance was given to us and we made massive deletions because of the complexity of a lot
35 of the provisions. There was a Joint Work Session meeting in December 2013 and both elected
36 bodies looked at the proposal. The County adopted their version of the animal control ordinance in
37 January 2014 but the City Council has had continuing concerns with a number of issues but mostly
38 with the trap, neuter, and release of feral cats. The County implemented a feral cat program which
39 has unenclosed cat colonies because they felt having enclosed cat colonies would be spun off by
40 some people as justifying cat hoarding. We are now back with our revised ordinance after many
41 work sessions.

1

2 Mayor Miyagishima said so basically what we are doing today is decriminalizing TNR.

3

4 Marcy Driggers said originally it proposed decriminalizing behaviors that otherwise would have
5 resulted in a violation so if you fed and sheltered cats that did not belong to you, those cats would
6 be subjected to impoundment by animal control officers. So, by decriminalizing these behaviors,
7 subject to restrictions, they allow groups to have unenclosed cat colonies, provide them with food
8 and limited medical care to cats that are neutered and ear tipped.

9

10 Mayor Miyagishima asked does this 100% mirror the County's ordinance?

11

12 Marcy Driggers said it's more like 50-50. The County's sole method to address feral cats is
13 unenclosed cat colonies and the proposal that is in front of you now has two component parts to
14 address feral cats which one allows unenclosed cat colonies to exist with permits until a sunset
15 period (the year 2020) is reach and we also added another provision that the County did not which
16 is to provide for enclosed cat colonies. In both cases, the colony managers are encouraged to
17 domesticate the feral cats and reduce the population.

18

19 Mayor Miyagishima said the enclosed cat colonies are only if someone wishes to come forward and
20 set up their own cat colony. The City is not endorsing it or paying for it; correct.

21

22 Marcy Driggers said that is correct, and both enclosed and unenclosed are required to have annual
23 permits.

24

25 Councillor Sorg asked did the Albuquerque judge say that their ordinance was legal?

26

27 Marcy Driggers said he recognized that there is a feral cat population in Albuquerque, that it involves
28 health and safety issues, that the city has several alternatives to address these health and safety issues,
29 and that the program that they entered into with a non-profit entity was an acceptable alternative.

30

31 Councillor Levatino said there was discussions regarding having a cat colony sunset in five years and
32 there were some concerns whether that meant that at the beginning of the five years you had to apply
33 for the license or can it be in year two or three or four?

34

35 Marcy Driggers said the way it is drafted, there will not be any free roaming or unenclosed cat
36 colonies on January 1, 2020; unless the Council changes it before then. There is no limitation on
37 when you can get a permit so you could apply for a permit on December 31, 2019 and the next day
38 you would not be allowed to have a free roaming or unenclosed cat colony.

39

40 Councillor Pedroza said the state law is that municipalities are required to find any free roaming cats,
41 dogs, ferrets, and others and do something with them; correct?

1

2 Marcy Driggers said correct.

3

4 Councillor Pedroza said one of the things that concerns me is that it seems we are saying that
5 someone can find an animal and take it to the shelter to get it spayed, microchipped, and ear tipped
6 and then return it to someone else's property. I have a problem with that. I don't hear you addressing
7 other things like feral cats sometimes do and sometimes don't get medical care, sometimes they are
8 fed and sometimes they aren't, and the effects they have on the wildlife, like birds. I don't want
9 anyone coming in and putting a cat in my backyard so I don't think we should decriminalize it.

10

11 Marcy Driggers said I am just following the mandate that was given to City and County staff by the
12 Animal Services Center Board which was to have compatible ordinances. The County opted for just
13 unenclosed cat colonies and this Council is considering both enclosed and unenclosed. I'm not
14 advocating for either one so I don't have any statistics and in fact, our animal control officers are
15 happy with our existing animal ordinance.

16

17 Councillor Small said I'm glad to see that the fees will be set at a later date by resolution because
18 a fee of \$100 per intact animal might cause people not to participate in this system. I think the five
19 year sunset provision is very appropriate and I see that as a positive step. The one thing that is not
20 in here is that we don't have a system for data collection of animals and pets within the city and data
21 collection is essential to this effort.

22

23 Marcy Driggers said I do know that there was a lot of data presented at a joint meeting about a year
24 ago from a company in El Paso and they used that to justify applications for grants.

25

26 Councillor Small said I think that we do need to have a clear reference for data collection in the
27 ordinance. What is the easiest and simplest way to include that in the ordinance? Also, there is a five
28 year sunset period and there needs to be a cutoff date during that five years of people being able to
29 register colonies.

30

31 Councillor Sorg said I agree that we need to collect data and we also need to get information and
32 education on responsible pet ownership out to the public. I have drafted up an amendment and it has
33 about five different changes to the ordinance.

34

35 Mayor Miyagishima said that looks like a lot of amendments so hopefully they are simple ones.

36

37 Councillor Sorg read his proposed amendments.

38

39 Mayor Miyagishima said I think those amendments are too significant so I recommend that we move
40 forward with it as presented and then have a work session on some of these items that you presented.

1

2 Harry (Pete) Connelly, City Attorney said there are a couple of problems; you're amending Section
3 7-31 and then you're adding new provisions to the section. We would have a problem because if the
4 public doesn't agree with these amendments; they weren't notified of them so we'd have a problem.

5

6 Mayor Miyagishima said I would prefer that we move forward and then bring these items up at a
7 work session.

8

9 Councillor Small said I would propose that we change the cutoff date for issuing cat colony permits
10 from January 1, 2016 to January 1, 2017. I would also like to add something like "detailed
11 information including but not limited to colony size, location, and impact shall be jointly gathered
12 and maintained" which speaks to gathering and maintaining data. I would be comfortable with
13 moving forward with this, including these two amendments, today.

14

15 Mayor Miyagishima said the problem with having a cutoff date for issuing permits as an amendment
16 is that members of the public weren't notified of that being proposed so they don't have the
17 opportunity to give their input. I think we need to move forward with this and then discuss that at
18 a work session as well.

19

20 Councillor Smith said I concur with Councillor Small because I wasn't aware that we had so many
21 limitations on what we can amend without it being advertised. It seems to me that he was proposing
22 an amendment so I will second that amendment for purposes of discussion.

23

24 Mayor Miyagishima asked Pete, does this change the spirit of the ordinance or would it need to be
25 advertised?

26

27 Harry (Pete) Connelly said Councillor Small's amendment is for Section 7-31 is to add a section that
28 would change the permits from 2016 to 2017 and add another new section for the collection data.
29 That would be acceptable.

30

31 Marcy Driggers said you may want to make the data collection as a stand alone section between
32 Section 7-45 and Section 7-46.

33

34 Councillor Small said I would agree with that.

35

36 Councillor Levatino said Councillor Small's proposed amendment for the cutoff date is for the
37 enclosed and not the unenclosed; correct?

38

39 Councillor Small said it's reversed; it is for the unenclosed permits.

40

1 Councillor Levatino said then if a colony is found after January 2017, then the person who wants to
2 take care of that colony would be doing so illegally. I don't think that would work and I think that
3 would destroy the spirit of this ordinance. I do agree that the data collection is imperative but I think
4 we should discuss it further during a work session so we can determine what type of data we want
5 collected.

6

7 Marcy Driggers said we will need to come back in a work session to discuss the different fees so
8 maybe at that time, we can also discuss the data types.

9

10 Marcy Scott, Member of the Public said I'm even more confused now than I was a month ago during
11 your August session. We worked hard to try to get a consensus from Council and be on common
12 ground but this ordinance doesn't really reflect the D3 option that we had discussed and at least five
13 of you gave a consensus so I think the amendments that Councillor Small and Councillor Sorg are
14 trying to make are crucial to this ordinance.

15

16 Alice Anderson, Member of the Public said the draft ordinance you looked at in August already had
17 all of parts that Councillor Sorg wants to amend with the exception of the change to the statement
18 of intent. So the public isn't being surprised by any of these changes he is proposing.

19

20 Dr. Gary Roemer, Member of the Public said I am a wildlife ecologist at NMSU and I have
21 experience in invasive species which feral cats are invasive species. I support both Councillor Sorg
22 and Councillor Small's amendments and I think you should do anything in your means to reduce the
23 number of feral and unowned cats that you have in the city limits.

24

25 Bob Tavanelli, Member of the Public said I am a wild biologist and I'm the Conservation Chair for
26 the Mesilla Valley Audubon Society. I think Councillor Sorg and Councillor Small's amendments
27 have a lot of merit and I think they need to be considered. I am uncomfortable with approving this
28 today without giving those amendments some serious consideration. I hope that you will postpone
29 this and have a work session to discuss it so it can be done correctly.

30

31 Vic Villalobos, Member of the Public said I agree with Councillor Pedroza that she doesn't
32 understand most of the things that we are talking about and I think that some of the things she is
33 talking about, she makes up. No one is going to take a cat and drop it off on her property because
34 these cats have a mind of their own and they will already be there.

35

36 Ann McCarthy, Member of the Public said I had a problem with too many cats on my property so
37 I trapped them, spayed and neutered them, and I have them at my house illegally. I was turned in by
38 a neighbor down the street because she didn't receive any money and the money I received, I used
39 to see my son in Tucson. We need to be able to trap, spay and neuter every cat that is in Las Cruces.
40 I would appreciate it if Council would move this forward instead of holding it up again.

Regular Meeting
November 3, 2014

1

2 Ron Camuñez, Member of the Public said when a councillor does an amendment, doesn't it go
3 through Legal first to get their opinion? We've been sitting here for almost two hours talking about
4 this matter and it seems to me that we are losing the faith and confidence of the public. This issue
5 has gone on for several years and we're still wanting to send it back to the committee with the hopes
6 of finding a solution.

7

8 Frank Bryce, Member of the Public said in the county, we are signing up colony managers and we
9 have people in the city who also want to be in this program.

10

11 Tom Townsend, Member of the Public said we need to educate people and we need to take care of
12 our pets. I heard some of the councillors state that we need to gain participation but some of the
13 things I heard today would discourage people from stepping forward.

14

15 Dr. Beth Vesco-Mock, Animal Services Center Director said I had to euthanize a boat load of feral
16 cats today so this is very personal to me. You need anywhere from 85% to 90% spays and neuters
17 done to affect a population and I don't understand why we are going to set this program up and then
18 say you can only participate the first two years.

19

20 Councillor Small said I just want to clarify that the permits for unenclosed colonies would close after
21 two years, those people will still be able to spay and neuter cats in that colony after that time period.

22

23 Dr. Beth Vesco-Mock said I don't agree that you should be adding new cats to your cat colony and
24 I personally believe you should have only ten to fifteen cats, twenty at the most, in a colony. I extend
25 my invitation to sit down and talk to Councillor Pedroza because no one should be spaying or
26 neutering a cat and then releasing it on a property that it did not come from because this program is
27 trap, neuter, and return; not trap, neuter, and release. It's not the idea to add more cats to a colony;
28 the whole idea is to manage the colonies and reduce the population of the colony.

29

30 Councillor Levatino said my point is that I think that once people understand and know about it then
31 they will be coming out of the woodwork to make it legal. My problem with restricting it only until
32 2017 is that people will be discovering colonies after that date and it restricts them so they are unable
33 to registered it so they will have those cats keep reproducing which would give us false data on the
34 data that we would collect.

35

36 Dr. Beth Vesco-Mock said I agree with you and the restrictions that are being put on this program
37 is making it a very expensive program. They have to get them neutered, microchipped, ear tipped;
38 and we are not providing that service for free so it will take at least a year for some of the other
39 programs to get grant funding to help with some of those services.

40

1 Councillor Silva said I am not a fan of feral cats but I do understand the TNR program and we have
2 been working on this for about five years. I support moving forward with this and the changes they
3 are proposing are pretty significant which would basically be putting forward a new ordinance. I
4 support moving forward with this the way it is and having discussions later at a work session.

5
6 Councillor Sorg said I want to reduce the free roaming cats that prey on wildlife in the city. If we
7 continue to allow permitted free roaming cat colonies throughout the five years then those free
8 roaming cats will increase. If they spay or neuter their cats then they will decrease and they can add
9 cats as they find them throughout the years.

10
11 Councillor Small said I think there is a way we can move forward with my two minor modifications.

12
13 Councillor Smith said I would suggest that if we can get to the point of voting on the amendment
14 and voting on the ordinance itself; I would like to see us adopt it and move forward with a work
15 session. As we look at whether or not we adopt this amendment, some of the points that have been
16 brought up about implementation and sunset are critical ones that one way or another should come
17 up at the work session.

18
19 Councillor Pedroza said as long as we do have a work session to discuss the very simple
20 amendments that Councillor Sorg brought up then I have no opposition to going forward.

21
22 -----

23
24 Councillor Small Moved to Amend Council Bill No. 15-009; Ordinance No. 2728 to amend Exhibit
25 A by adding the following: 1. No new permit for unenclosed cat colony shall be issued after January
26 1, 2017; and 2. Detailed information including but not limited to colony size, location, and impact
27 shall be jointly gathered and maintained and Councillor Smith Seconded the motion.

28
29 -----

30
31 Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 15-009; Ordinance
32 No. 2728 to amend Exhibit A by adding the following: 1. No new permit for unenclosed cat colony
33 shall be issued after January 1, 2017; and 2. Detailed information including but not limited to colony
34 size, location, and impact shall be jointly gathered and maintained and it Failed. 3-4 Councillor
35 Pedroza, Councillor Small, and Councillor Smith voted Aye. Councillor Silva, Councillor Sorg,
36 Councillor Levatino, and Mayor Miyagishima voted Nay.

37
38 -----

39
40 Councillor Silva Moved to Amend Council Bill No. 15-009; Ordinance No. 2728 to amend Exhibit
41 "A" by adding a new Section 7-46 to read "Detailed information including but not limited to colony
42 size, location, and impact shall be jointly gathered and maintained, and Councillor Sorg Seconded
43 the motion.

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Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 15-009; Ordinance No. 2728 to amend Exhibit "A" by adding a new Section 7-46 to read "Detailed information including but not limited to colony size, location, and impact shall be jointly gathered and maintained, and it was Unanimously Approved. 7-0

Mayor Miyagishima called for the roll on the Motion to Approve Council Bill No. 15-009; Ordinance No. 2728 as Amended and it was Approved. 6-1 Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Levatino, Councillor Smith, and Mayor Miyagishima voted Aye. Councillor Sorg voted Nay.

DRAFT

(13) Council Bill No. 15-016; Ordinance No. 2735: An Ordinance to Authorize the Sale of City Owned Property (Lot 5 & Lot 9) at the West Mesa Industrial Park for an Economic Development Project.

Councillor Smith Moved to Approve Council Bill No. 15-016; Ordinance No. 2735 and Councillor Small Seconded the motion.

Gary Camarano, Economic Development Coordinator gave an overhead presentation and said we have a local business, New Mexico Shrimp Company, looking to put an industry in the West Mesa Industrial Park. We have offered them a price of \$20,000 per acre and this will create jobs for the Las Cruces area.

Mayor Miyagishima said so we are selling this at about half of its appraised value.

Gary Camarano said that is correct. This will reinforce our relationship with NMSU and this is the type of business that we want to attract to this city.

Councillor Small said I am supportive of this effort but who would the land belong to and what safeguards do we have in place? If New Mexico Shrimp Company is not the owners then what guarantee do we have that it will be a shrimp company?

1 Gary Camarano said this is a real estate transaction and not a local Economic Development Act
2 incentive. The entity buying the property, it would be kinda hard for them to sell the property at a
3 profit because we have eleven hundred acres that could be sold at the same price to entice a business.

4

5 Councillor Silva asked what kind of jobs will be offered and at what pay scale?

6

7 Gary Camarano said it's my understanding that there will be ten jobs created and they will be paid
8 above minimum wage. After the second expansion, it will go up to twenty-five jobs.

9

10 Councillor Silva asked what kind of track record does this company have?

11

12 Gary Camarano said the first phase of their existence has been very well received and there is a big
13 enough market that I think they can support their product.

14

15 Councillor Sorg said I took a quick tour of their facility and I could see that they needed to expand
16 so I do support this.

17

18 Councillor Pedroza asked can you tell us about their use of water?

19

20 Gary Camarano said the tanks used for growing the shrimp will be closed to reduce the evaporation
21 so they won't be using water day in and day out. They will use osmosis for their salt levels and they
22 will be using cotton seed as feed for the shrimp.

23

24 Councillor Levatino said I do support this and it is a wonderful idea to be able to get shrimp from
25 somewhere other than China.

26

27 Bryn Davis, Member of the Public said I work for Sapphire in the West Mesa and I believe that this
28 group is very innovative. My concern is that there is an ordinance to sell land to an entity at a deep
29 discount price. I think you should put some kind of expectation on the second parcel in order to sell
30 it and that way it will address some of the concerns with them flipping it. I am not opposed to this,
31 I am totally for it, but I think the process should be done properly so that there is an incentive on the
32 first property and performance requirements for the second property.

33

34 Councillor Small said so how can we go about doing that?

35

36 Robert Garza, City Manager said I want to caution you because we have already negotiated this sale
37 so discussing that should only be done if the other party is willing and present. So if you are wanting
38 to amend this then I would suggest that you table it.

39

1 Councillor Smith said as sellers, isn't that something that we would be able to condition? Perhaps
2 we can move forward with what we have at this point with the understanding that the right of first
3 refusal that comes with the sale of the second parcel would include our discretion at the point of sale.

4

5 Gary Camarano said that makes sense. This is a local company that is building their first facility and
6 if they reached their goals on the first facility and it looks like an expansion is necessary; if that
7 expansion doesn't come after two years then that property goes back to the City and we can openly
8 market that property.

9

10 Councillor Smith said I believe we have enough options there to be able to work with this so I would
11 recommend that we move forward with this as it is written.

12

13 Mayor Miyagishima said Councillor Small, your biggest concern is that they don't flip the property;
14 correct?

15

16 Councillor Small said correct. The basic safeguard is to move forward with the first property but then
17 be able to condition the usage of the second parcel. If the first property is not built out by New
18 Mexico Shrimp Company, do we have the administrative discretion to keep from selling the second
19 property?

20

21 Harry (Pete) Connelly, City Attorney said there are protections in here and we have the right to
22 repurchase it if they don't build within two years.

23

24

25

26 Mayor Miyagishima called for the roll on the Motion to Approve Council Bill No. 15-016;
27 Ordinance No. 2735 and it was Unanimously Approved. 7-0

28

29

30

31 **IX. BOARD APPOINTMENTS**

32

33 There were no board appointments.

34

35

36

37 **X. NOTICE OF PROPOSED ORDINANCE(S) ----- 1.) *There will be no public discussion.*** 38 **2.) *A councillor may ask staff for clarification on the proposed ordinance(s).***

39

40 (14) Council Bill No. 15-017; Ordinance No. 2736: An Ordinance Approving a Zone Change
41 From A-2 (Rural Agricultural District From the 1981 Zoning Code) to EE (Single-Family

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1 Equestrian Estate & Agriculture) on 4.86 ± Acres of Land Located at 1720 Tucson Avenue.
2 Submitted by Gabriel Perrault, Property Owner (Z2876).

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

5
6 (15) Council Bill No. 15-018; Ordinance No. 2737: An Ordinance Repealing and Replacing
7 Section 30-146 Definitions, Section 30-201 Exempt Building Permits, Section 30-272 Pre-
8 Application Procedure, Section 30-352 Pre-Application Procedure, Section 30-457 Pre-
9 Application Procedure and Division 17 Building Standards of Chapter 30, Buildings and
10 Building Regulations of the Las Cruces Municipal Code (LCMC). Submitted by the City of
11 Las Cruces.

12
13 Mayor Miyagishima and Council agreed to bring this item back.

14
15
16
17 **XI. CITY COUNCIL MEMBER BOARD REPORTS**

18
19 There were no City Council Member Board Reports.

20
21
22
23 **XII. GENERAL DISCUSSION**

24
25 a.) Mayor

26
27 Mayor Miyagishima passed.

28
29
30
31 b.) City Council

32
33 Councillor Smith said I wanted to know if there was a level of support from Council for us to discuss
34 having Lonnie Klein, Director of the Las Cruces Symphony Orchestra, do a pop symphony on Main
35 Street around September 2015?

36
37 Mayor Miyagishima said just write it up and propose it at a Council meeting.

38
39 Councillor Smith said regarding the new minimum wage, I would like for us to consider how our
40 Economic Development office might help with collecting data to help us assess the situation when
41 we come into phase two.

1

2

3

4 Councillor Levatino said tomorrow is Election Day and I am encouraging everyone to get out and
5 vote.

6

7 The event "Guess Who's Dancing" is coming up on November 9th at NMSU and it is a wonderful
8 program. It is the major fundraiser for the dance group at the university so I would encourage
9 everyone to come and help support it on November 9th.

10

11

12

13 Councillor Sorg said there was a tragic accident in the Mojave Desert last Friday with the Virgin
14 Galactic Spaceship II and we send our condolences to the family of the pilot that lost his life. I have
15 a resolution from Doña Ana County that supports full vehicular access to Spaceport America from
16 Doña Ana County. I would like to propose that we write a similar resolution in support of the same
17 full vehicular access and make it fit to Las Cruces.

18

19 Mayor Miyagishima said I would support putting that on.

20

21

22

23 Councillor Small said I want to thank staff for the work along Amador with the Frank Whole Foods
24 project.

25

26 I echo the comments about people exercising their right to vote tomorrow and everyone is guaranteed
27 time off to vote at one of the convenient centers.

28

29 Regarding the Fair Standard Labor Act, I would join with Councillor Smith in looking at the best
30 available sources of data which our Economic Department is one of them.

31

32

33

34 Councillor Pedroza said the task force that I was a representative on, has finally finished. I went up
35 to Albuquerque every three weeks since May and they were asked for five recommendations but we
36 gave them six, which the sixth one was that they find funding so it can be continued next year
37 because there is still a lot that needs to be done. In about a month, I should be able to give Council
38 a report on those recommendations.

39

40 The Renaissance Fair was very exciting but I didn't spend as much time there as I usually do.

1
2 As far as the exemptions and the Fair Standard Labor Act to minimum wage, I have begun to do
3 some research on that and I look forward to presenting that report.

4
5 -----

6
7 Councillor Silva said regarding the Spaceport, we do send our condolences to the deceased but with
8 that accident we do need to consider at what point do we cut our losses? I think passing a resolution
9 like the one Councillor Sorg proposed is premature because the investigation into this accident could
10 easily last six months to a year. I think an assessment really needs to be done at some level to
11 determine at what level are we going to continue to support this project.

12
13 I do support the symphony orchestra concert on Main Street.

14
15 This Friday is the Ramble on Main Street and I recommend everyone to come down even if it's a
16 little chilly outside.

17
18 The Rio Grande Theater website has information on their fall series which is phenomenal.

19
20 I apologize for interrupting Mr. Valencia at our last meeting but I appreciate that the Mayor reminded
21 him of the policy regarding campaigning. I think we need to be firm with policies like that because
22 I think it was wrong for him to make vague statements like the Council supported it. I don't support
23 what he has in place but I do support the public transit.

24
25 -----

26
27 c.) City Manager

28
29 Robert Garza, City Manager passed.

30
31 -----

32
33 Councillor Small Moved to Adjourn and Councillor Smith Seconded the motion.

34
35 Mayor Miyagishima said all of those in favor signify by saying "Aye."

36
37 Council said "Aye."

38
39 Meeting Adjourned at 6:14 p.m.