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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 2 Ordinance/Resolution# 15-217

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of May 18, 2015
 (Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR PUBLIC CELEBRATION PERMIT APPLICATIONS FROM AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE BODY ART BLOCK BASH TO BE HELD ON SATURDAY, JUNE 6, 2015.

PURPOSE(S) OF ACTION:

Approve the issuance of a waiver.

COUNCIL DISTRICT: 1		
<u>Drafter/Staff Contact:</u> Monica Campbell	<u>Department/Section:</u> Legal/City Attorney	<u>Phone:</u> 541-2128
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

According to NMSA 1978, Section 60-6B-10, no license shall be issued for the sale of alcoholic beverages at a licensed premises that is within 300 feet of a church or school. However, in 1997 the statute was amended to allow for the granting of a waiver of the distance restriction by the governing body of the local option district.

Java Gypsy, LLC is sponsoring the "Body Art Block Bash" on Saturday, June 6, 2015 on Main Street between the roundabout and Las Cruces Avenue, from 6:00 p.m. to 12:00 a.m.

The Latter Rain Harvest Fellowship Church is within 300 feet of the beer and wine service areas.

Java Gypsy, LLC has asked Amaro Winery and High Desert Brewing Company to provide wine and beer for sale and consumption at the event. The Alcohol and Gaming Division of the Regulation and Licensing Department requires a waiver of the church/school distance restriction by the City Council for the Public Celebration Permit Applications to be approved.

The resolutions for approval of the Public Celebration Permit Applications are presented as separate agenda items. Approval of the Public Celebration Permit Applications is contingent upon approval of a waiver of the church/school distance restriction.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Map showing the event location and church/school distance.
3. Attachment "1", Public Celebration Permit Application, Amaro Winery.
4. Attachment "2", Public Celebration Permit Application, High Desert Brewing Company.
5. Attachment "3", List of property owners within 300 feet of the museums event location.
6. Attachment "4", Form of letter sent to the property owners listed in Attachment "3".

SOURCE OF FUNDING:

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

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve of and consent to the issuance of a waiver of the church/school distance restriction. Approval will allow Amaro Winery and High Desert Brewing Company to continue with the application process.
2. Vote "No"; if the Council does not approve the waiver, Alcohol & Gaming will be notified of the reason(s) the waiver was not approved and the Director of Alcohol & Gaming shall not approve the Public Celebration Permits.

(Continue on additional sheets as required)

3. Vote to "Amend"; any amendments must comply with state statute and/or the requirements of Alcohol & Gaming.
4. Vote to "Table"; if the Council fails to either approve or disapprove the issuance of a waiver, the matter will be submitted to Alcohol & Gaming for further proceedings.

REFERENCE INFORMATION:

The resolution(s) or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

RESOLUTION NO. 15-217

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR PUBLIC CELEBRATION PERMIT APPLICATIONS FROM AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE BODY ART BLOCK BASH TO BE HELD ON SATURDAY, JUNE 6, 2015.

The City Council is informed that:

WHEREAS, according to NMSA 1978, Section 60-6B-10, no license shall be issued for the sale of alcoholic beverages at a premises that is within 300 feet of a church or school. However, in 1997, the statute was amended to allow for the granting of a waiver of the distance restriction; and

WHEREAS, Java Gypsy, LLC is sponsoring the "Body Art Block Bash" on Saturday, June 6, 2015 on Main Street between the roundabout and Las Cruces Avenue, and has asked Amaro Winery and High Desert Brewing Company to provide wine and beer for sale and consumption at the event; and

WHEREAS, the Latter Rain Harvest Fellowship Church is within 300 feet of the beer and wine service areas for the event; and

WHEREAS, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires that Amaro Winery and High Desert Brewing Company must obtain a waiver of the church/school distance restriction from the City Council for the Public Celebration Permits to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow Amaro Winery and High Desert Brewing Company to proceed to the next step of the application process.

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

(I)

THAT the issuance of a waiver of the church/school distance restriction to Amaro Winery and High Desert Brewing Company for the "Body Art Block Bash" on Saturday, June 6, 2015, to be held on Main Street between the roundabout and Las Cruces Avenue, as shown on Exhibit "A" attached hereto, is hereby approved.

(II)

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

DONE AND APPROVED on this _____ day of _____, 20__.

APPROVED:

ATTEST:

Mayor

City Clerk

(SEAL)

VOTE:

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

Moved by: _____

Seconded by: _____

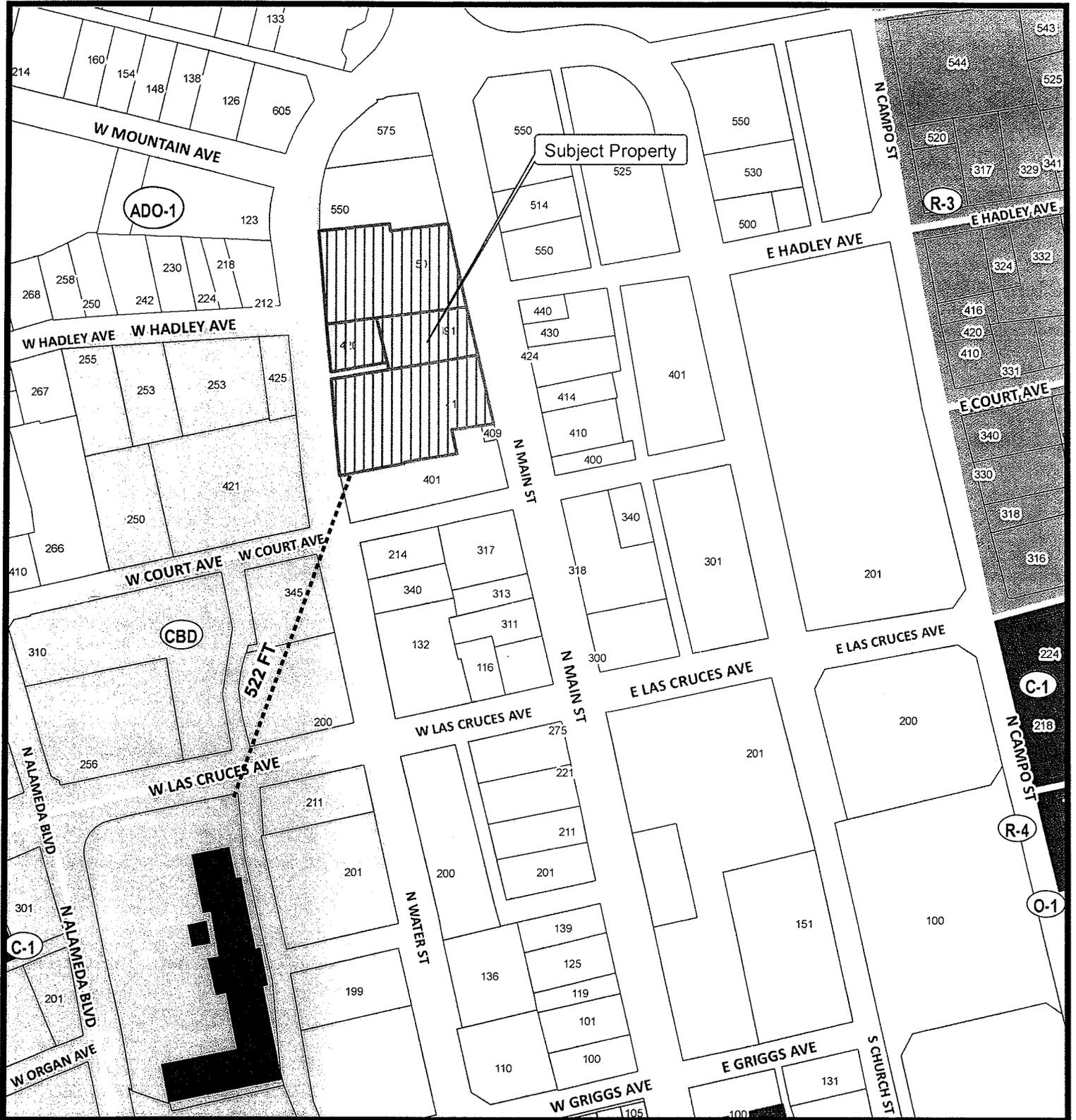
APPROVED AS TO FORM:



City Attorney

Zoning / Vicinity Map

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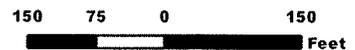
This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

Legend

Buildings Considered

MAIN ST. MUSEUMS
ZONING CBD

DISTANCE TO THE NEAREST SCHOOL: 522 FEET
DISTANCE TO THE NEAREST CHURCH: ADJACENT



Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

ALCOHOL & GAMING DIVISION
PUBLIC CELEBRATION PERMIT APPLICATION WINEGROWER, SMALL BREWER & CRAFT DISTILLER LICENSE HOLDERS
(60-6A-11/60-6A-26.1 NMSA)

EXAMPLE FILL IN HIGHLIGHTED LINES ONLY
FEES ARE \$10 PER DAY - Fees are Non-Refundable

LICENSE HOLDER INFORMATION:

Business Name (DBA) AMARO WINERY Owner Name AMARO WINERY, LLC Liquor License # 6151
Mailing Address 402 S. MELENDRES ST. City, State & Zip LAS CRUCES, NM 88007
Contact Telephone # 575-312-3168 Fax # 575-525-9405 Email Address KELLY.ALLEN@MSN.COM

EVENT INFORMATION: Celebration type: State Fair County Fair Community Fiesta Cultural/Artistic Performance Athletic

Circle those that apply - All Age Event / Wrist Bands and/or Stamps - Beer Garden - Indoor / Outdoor Event Begin Time 6 pm End Time 12:00 pm

Description and Name of Event Body art block Date(s) of Event 7/15/15 Alcohol Service Begin Time 6 pm End Time 11:30 pm

Physical Address of Event & Name of Building or Business Main Street downtown mcb Number of Persons expected to Drink 100

Description of Security Security Guards Number of Security 10 Security Contact Name Mike Gonzales Contact Telephone # 575-526-4151

Sponsor of Event Java Gypsy LLC SPONSOR INFORMATION
Contact Name Whitney Billings Contact Telephone # 520-342-4277
BUILDING/PROPERTY OWNER APPROVAL

Name (print) _____ Signature _____ Telephone # _____ Date _____

LICENSE HOLDER & SERVER CERTIFICATION: I, Kelly Allen (Licensee) hereby certify that this event is not within 300 Ft. of a church or school unless alcoholic beverages were sold there prior to July 1, 1981 or a waiver is obtained from the local governing body. I further certify that all persons providing the service of alcoholic beverages are server certified and that they are my employees and that ALL the information in this application is true and correct.

NOTE: List of servers including name, server permit # and server expiration date must be attached to permit application. Licensee agrees that if any statements or representations herein are found to be false, the director may refuse to issue additional permits.

Licensee Name (print) Kelly Allen Signature _____ Date 4/21/15
All profits derived from the sale of liquor will go only to the licensee. Only the owner or authorized person under this license may sign the permit.

NOTARY INFORMATION

Subscribed and Sworn before me this 21ST day of APRIL, 2015 Notary Public [Signature] Exp. 7/20/2018

LOCAL GOVERNING BODY APPROVAL

Print Name _____ Title _____ Date _____ Signature _____ Phone _____ Fax _____

ALCOHOL & GAMING DIVISION USE ONLY

Approved by: _____ Date _____ Permit Number _____
Attachments: 1) Floor plan - (Pictures) 2) Fees per day (listed on top of page) 3) Server information list

OFFICIAL SEAL
JUANITA SEAL
NOTARY PUBLIC - STATE OF NEW MEXICO
MY COMMISSION EXPIRES: 9/26/2018



ALCOHOL & GAMING DIVISION
PUBLIC CELEBRATION PERMIT APPLICATION WINEGROWER, SMALL BREWER & CRAFT DISTILLER LICENSE HOLDERS

(60-64-11 / 60-64-26.1 NMSA)

FEEES ARE \$10 PER DAY -- Fees are Non-Refundable

LICENSE HOLDER INFORMATION:

Business Name (DBA) High Desert Brewing Company Owner Name High Desert Brewing Co., Inc. Liquor License # 6801
Mailing Address 1201 W Hadley Avenue City, State & Zip Las Cruces, NM 88005
Contact Telephone # 575-525-6752 Fax # 575-647-8033 Email Address hdbc.lcnm@gmail.com

EVENT INFORMATION: Celebration type: State Fair County Fair Community Fiesta Cultural/Artistic Performance Athletic

Circle those that apply - All Age Event / Wrist Bands and/or Stamps - Beer Garden - Indoor / Outdoor Saturday Event Begin Time 6:00 pm End Time 12:00 am

Description and Name of Event Body Art Block Bash Date(s) of Event June 6, 2015 Alcohol Service Begin Time 6:00 pm End Time 11:30 pm

Physical Address of Event & Name of Building or Business Main Street, DOWNTOWN Las Cruces Number of Persons expected to Drink 700

Description of Security Security Concepts Number of Security 10 Security Contact Name Mike Gonzales Contact Telephone # 575-526-4151

SPONSOR INFORMATION

Sponsor of Event Java Gypsy, LLC Contact Name Whitney Billings Contact Telephone # 520-342-9277

BUILDING/PROPERTY OWNER APPROVAL

Name (print) _____ Signature _____ Telephone # _____ Date _____

LICENSE HOLDER & SERVER CERTIFICATION: I, Donna L. Almarez (Licensee) hereby certify that this event is not within 300 Ft. of a church or school unless alcoholic beverages were sold there prior to July 1, 1981 or a waiver is obtained from the local governing body. I further certify that all persons providing the service of alcoholic beverages are server certified and that they are my employees and that ALL the information in this application is true and correct.

NOTE: List of servers including name, server permit # and server expiration date must be attached to permit application. Licensee agrees that if any statements or representations herein are found to be false, the director may refuse to issue additional permits.

Licensee Name (print) Donna L. Almarez Signature _____ Date 16 Apr 15
All profits derived from the sale of liquor will go only to the licensee. Only the owner or authorized person under this license may sign the permit.

NOTARY INFORMATION

Subscribed and Sworn before me this 16 day of April, 2015 Notary Public Raygo Exp. 9/6/26

LOCAL GOVERNING BODY APPROVAL

Print Name _____ Title _____ Date _____ Signature _____ Phone _____ Fax _____

ALCOHOL & GAMING DIVISION USE ONLY

Approved by: _____ Date _____ Permit Number _____
Attachments: 1) Floor plan - (Pictures) _____ 2) Fees per day (listed on top of page) _____ 3) Server information list _____

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My commission expires: 8/1/2016
NOTARY PUBLIC - STATE OF NEW MEXICO
ROSA Y RUIZ
OFFICIAL SEAL



116 Commercial Properties LLC 116 W Las Cruces Ave Las Cruces NM 88001	Aguirre Pete Mrs ³⁹ PO Box 2276 Las Cruces NM 88004-2276	American Linen Supply of NM 550 N Church St Las Cruces NM 88001-3440
Avasil Properties LLC 406 N Main St Las Cruces NM 88001	Bank of the Rio Grande NA 1800 Glenarm Pl Ste 103 Denver CO 80202	CM Associates LLC 212 West Hadley Las Cruces NM 88005
COAS Properties LLC 317 N Main St Las Cruces NM 88001	Hadley Ave Investments LLC 253 W Hadley Ave Las Cruces NM 88005	Hamill-Buckley LLC et al 1230 Citylights Pl Las Cruces NM 88007
Herman Peter and Ceil 430 N Downtown Mall Las Cruces NM 88001	Las Cruces Lodge #2081 Loyal Order of Moose 514 N Main Las Cruces NM 88001-1256	Latter Rain Harvest Fellowship PO Box 1927 Las Cruces NM 88004
Loomis Neil 127 Harvard Las Cruces NM 88005-1708	Lyner LLC PO Box 2274 Las Cruces NM 88004-2274	MRMJ Properties LLC 560 N Water St Las Cruces NM 88001
Overmyer Carl R 340 N Water Las Cruces NM 88001	Pioneer Construction LLC PO Box 397 Las Cruces NM 88004	Rainbow Real Estate Co PO Box 16134 Las Cruces NM 88004
Sandoval Gabriel C & Minerva N 2000 E Lohman Ste C Las Cruces NM 88001	Schwaiger Glenn & Leann Meadows 2800 N Valley Dr Apt 4 Las Cruces NM 88007	Scientist 325 W Mountain Las Cruces NM 88001
Scott James M & Marta H Trustees 216 Princeton Las Cruces NM 88005-1728	Studio D Architects PA 6490 Vista Valley Trl Las Cruces NM 88007	Sugamosto Ronald Louis 4173 Capistrano Las Cruces NM 88011
Sunshine Building of Las Cruces LLC PO Box 578 Las Cruces NM 88004	The Lofts at Alameda LLC 141 N. Roadrunner Prkwy Ste 141 Las Cruces NM 88011	West Mountain LLC 123 W. Mountain Las Cruces NM 88001

April 28, 2015

Dear Property Owner:

Java Gypsy, LLC is sponsoring the "Body Art Block Bash" on Saturday, June 6, 2015, 6:00 p.m. to 12:00 a.m., on Main Street between the roundabout and Las Cruces Avenue. Java Gypsy has asked Amaro Winery and High Desert Brewing Company to offer wine and beer for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires the Las Cruces City Council to approve the Public Celebration Permit Applications from Amaro Winery and High Desert Brewing Company.

This matter will come before the City Council during its regular meeting on Monday, May 18, 2015 at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

Because the Latter Rain Harvest Fellowship Church is within 300 feet of the beer and wine service areas, a request for a waiver of the church/school distance restriction will be on the agenda for approval or disapproval. The LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted.

If you wish to share your views concerning the impact of the Public Celebration Permit Applications at the "Body Art Block Bash", you may attend the City Council Meeting on May 18, 2015, or you may submit your views in writing to the City Attorney's Office, Post Office Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Thursday, May 14, 2015.

If you have any questions or need additional information, please contact Monica Campbell at 575-541-2128.

Sincerely,

CITY OF LAS CRUCES

William R. Babington Jr.
City Attorney