



City Council  
of the  
City of Las Cruces

Regular Meeting

July 6, 2015

1:00 P.M.

Council Chambers, City Hall

**MEMBERS PRESENT:**

**STAFF:**

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

Robert Garza, City Manager  
Rusty Babington, City Attorney  
Linda Lewis, Interim 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 Burt Stevens and Daniel Jiron and declared the month of July 2015 as Astronomy Month and the week of July 5-11, 2015, as Amateur Astronomy Week.

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**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.*

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

1 There was none.

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5 **III. PUBLIC PARTICIPATION**

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7 Alice Anderson, Member of the Public said I'm going to talk about cats. The old ordinance defined  
8 a public nuisance and why are these provisions gone from the ordinance adopted last November?  
9 If we don't count the cats, we can't reach our goal of decreasing the number. TNR does not work  
10 because people don't neuter the cats they feed.

11

12 Donna Mae Yoost, Member of the Public asked why won't anyone check on Robert Rodriguez when  
13 he won't fix anything in my apartment?

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16  
17 **IV. ACCEPTANCE OF AGENDA: THOSE ITEMS ON THE AGENDA INDICATED BY**  
18 **AN ASTERISK (\*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON**  
19 **BY ONE MOTION.**

20

21 Mayor Miyagishima said Items 7, 9, and 11 will be removed from the Consent Agenda for  
22 discussion.

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25  
26 Councillor Small Moved to Approve the Agenda as Amended and Mayor Pro-Tem Smith Seconded  
27 the motion.

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30  
31 Mayor Miyagishima called for the roll on the Motion to Approve the Agenda as Amended and it was  
32 Unanimously Approved. 7-0

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36 **V. CITY COUNCIL MINUTES**

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38 \*(1) Regular City Council Meeting of June 1, 2015

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

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- 1 \*(2) Resolution No. 15-234: A Resolution Approving the Issuance of a Waiver of the  
2 Church/School Distance Restriction for a Public Celebration Permit Application from High  
3 Desert Brewing Company for the “Night Under the Stars” Event to be Held at the Branigan  
4 Cultural Center, 501 North Main Street, on Saturday, July 25, 2015.  
5
- 6 \*(3) Resolution No. 15-235: A Resolution Authorizing High Desert Brewing Company to  
7 Continue with the Permitting Process to Allow for the Sale and Consumption of Beer During  
8 “Night Under the Stars”, an Event at the Branigan Cultural Center, 501 North Main Street,  
9 on Saturday, July 25, 2015.  
10
- 11 \*(4) Resolution No. 15-236: A Resolution Approving the Issuance of a Waiver of the  
12 Church/School Distance Restriction for a Public Celebration Permit Application from Amaro  
13 Winery for the “Night Under the Stars” Event to be Held at the Branigan Cultural Center,  
14 501 North Main Street, on Saturday, July 25, 2015.  
15
- 16 \*(5) Resolution No. 15-237: A Resolution Authorizing Amaro Winery to Continue with the  
17 Permitting Process to Allow for the Sale and Consumption of Wine During “Night Under  
18 the Stars”, an Event at the Branigan Cultural Center, 501 North Main Street, on Saturday,  
19 July 25, 2015.  
20
- 21 \*(6) Resolution No. 15-238: A Resolution Approving the Issuance of a Waiver of the  
22 Church/School Distance Restriction for a Public Celebration Permit Application from Amaro  
23 Winery for the “Acting on a Dream” Festival, an Event at the Las Cruces Community  
24 Theater, 313 North Main Street, on Friday, August 14, 2015.  
25
- 26 \*(8) Resolution No. 15-240: A Resolution Approving the Use of Fund Balance from the  
27 Downtown Revitalization Fund in the Amount of \$70,000.00 for the Purpose of  
28 Implementing the Memorandum of Understanding with Downtown Las Cruces Partnership  
29 and to Adjust the FY2016 Budget.  
30
- 31 \*(10) Resolution No. 15-242: A Resolution Authorizing an Adjustment to the Fiscal Year 2016  
32 Budget for the Bonds Awarded for the East Mesa Water Reclamation Facility Solar  
33 Photovoltaic Project, the Jacob A. Hands Wastewater Treatment Facility Primary Clarifier  
34 Rehabilitation Project, and the Water Quality Laboratory Project, and to Amend the Las  
35 Cruces Utilities Portion of the Fiscal Year 2016 Infrastructure Capital Improvement Program.  
36
- 37 \*(12) Resolution No. 14-15-137: A Resolution Awarding an Indefinite Quantity and Indefinite  
38 Cost Price Agreement for City-Wide Mobile Vehicle Wash Service to I & E Landscaping  
39 and Pressure Washing of Las Cruces, New Mexico and to Fleetwash, Inc. of El Paso, Texas  
40 for Five (5) Years Subject to Approved Budget Appropriations and Annual Renewals.  
41

1 \*(13) Resolution No. 15-16-015: A Resolution Awarding the 2015/2016 Micro-Surfacing  
 2 Maintenance Project to Intermountain Slurry Seal, Inc., of Salt Lake City, Utah, through  
 3 State of New Mexico Pricing Agreement Number 40-805-14-11391, in the Amount of  
 4 \$828,560.00, Plus \$68,874.05 for New Mexico Gross Receipts Tax; Authorizing the City  
 5 Manager to Approve Change Orders in an Amount Not to Exceed \$41,428.00, for a Total  
 6 Project Authorization in the Amount of \$938,862.05; and to Amend the Fiscal Year  
 7 2015/2016 Budget.

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

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13 (7) Resolution No. 15-239: A Resolution Authorizing Amaro Winery to Continue with the  
 14 Permitting Process to Allow for the Sale and Consumption of Wine During the “Acting  
 15 on a Dream” Festival, an Event at the Las Cruces Community Theater, 313 North Main  
 16 Street, on Friday, August 14, 2015.

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18 Councillor Small Moved to Approve Resolution No. 15-239 and Mayor Pro-Tem Smith  
 19 Seconded the motion.

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23 Rusty Babington, City Attorney said we were asked to extend the consumption of alcohol by one  
 24 hour.

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28 Mayor Pro-Tem Smith Moved to Amend Resolution No. 15-239 to amend the hours in the first  
 29 whereas to extend the hours from 5:30 to 10:00 p.m., the fourth whereas, in Article I, the hours  
 30 will be 5:30 to 9:30 p.m. and Councillor Small Seconded the motion.

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34 Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 15-239 to amend  
 35 the hours in the first whereas to extend the hours from 5:30 to 10:00 p.m., the fourth whereas, in  
 36 Article I, the hours will be 5:30 to 9:30 p.m. and it was Unanimously Approved. 7-0.

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40 Mayor Miyagishima called for the roll on the Motion to Approve the Resolution No. 15-239 as  
 41 Amended and it was Unanimously Approved. 7-0

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(9) Resolution No. 15-241: A Resolution Accepting a Grant from the New Mexico Department of Transportation, Local Government Road Fund Program, Fiscal Year 2015/2016, for the Solano Drive A.D.A. Improvements Project in the Amount of \$44,793.00, Requiring a City Match in the Amount of \$14,931.00; and to Amend the Fiscal Year 2015/2016 Budget.

Mayor Pro-Tem Smith Moved to Approve Resolution No. 15-241 and Councillor Small Seconded the motion.

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Loretta Reyes, Director of Public Works gave an overhead presentation.

Mayor Miyagishima said the City has been working on this street for years.

Loretta Reyes said we have slowly made our way towards North Main.

Councillor Silva asked are there other funds in the City that we have committed towards ADA projects?

Loretta Reyes said we do budget in the CIP for ADA and sidewalk improvements.

Councillor Silva asked are they totally designated for ADA funding?

Loretta Reyes said we do make those efforts on many of our CIP projects and it can be from any funding that we already have for these projects.

Councillor Silva asked is there a specific ADA fund at the Federal level or State level that we can apply for?

Loretta Reyes said we do not have a separate fund just for ADA and we have not explored any grants at the Federal or State level. We recently received monies from the Safe Routes to Schools to bring certain areas around the schools into ADA compliance.

Councillor Silva asked how do you prioritize what you will be making improvements to?

Loretta Reyes said we look at projects that we've already started and areas where pedestrians would be walking.

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1 Mayor Miyagishima called for the roll on the Motion to Approve the Resolution No. 15-241 and  
2 it was Unanimously Approved. 7-0

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5 (11) Resolution No. 14-15-133: A Resolution Awarding an Indefinite Quantity, Indefinite  
6 Cost Price Agreement for the Senior Nutrition Program to Prices’s Creameries of El Paso,  
7 TX, and Shamrock Foods of Albuquerque, NM, for Fiscal Year 2015-2016 for the Period  
8 September 1, 2015, through June 30, 2016, with the Option to Renew for Three (3)  
9 Additional One (1) Year Periods Subject to Annual Budget Appropriations and Renewal.

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11  
12 Councillor Small Moved to Approve Resolution 14-15-133 and Mayor Pro-Tem Smith  
13 Seconded the motion.

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17 Councillor Small asked is there a local sourcing policy?

18  
19 Sonia Saldana, Long Term Care Services Manager said we do purchase local foods. We  
20 purchase the bigger items in bulk because they are less expensive and we have to make that food  
21 go a long way.

22  
23 Councillor Sorg said next time I would like a rough idea of how much food is used in this  
24 program.

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28 Mayor Miyagishima called for the roll on the Motion to Approve Resolution 14-15-133 and it  
29 was Unanimously Approved. 7-0

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33 (14) Resolution No. 15-243: A Resolution Approving the Issuance of a Waiver of the  
34 Church/School Distance Restriction for a Restaurant Liquor License (Beer and Wine) to  
35 Santorini Restaurant, Located at 1001 East University Avenue, Suite E3, Las Cruces, New  
36 Mexico.

37  
38 Mayor Pro-Tem Smith Moved to Approve Resolution No. 15-243 and Councillor Small Seconded  
39 the motion.

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1 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-243 and it was  
2 Unanimously Approved. 7-0

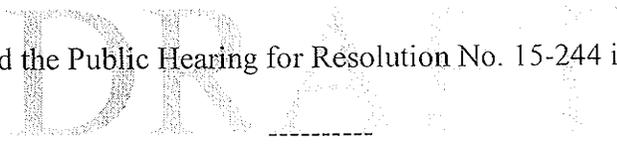
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7 (15) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 15-244;**  
8 **A PUBLIC HEARING MUST BE HELD:** Resolution No. 15-244: A Resolution  
9 Approving the Issuance of a Restaurant Liquor License (Beer and Wine) to Santorini  
10 Restaurant Located at 1001 East University Avenue, Suite E3, Las Cruces, New Mexico.

11  
12 Mayor Miyagishima said the Public Hearing for Resolution No. 15-244 is now open. Is there anyone  
13 who wishes to speak against this item?

14  
15 No one spoke.

16  
17 Mayor Miyagishima said the Public Hearing for Resolution No. 15-244 is now closed.



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20  
21 Mayor Pro-Tem Smith Moved to Approve Resolution 15-244 and Councillor Small Seconded the  
22 motion.

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26 Mayor Miyagishima called for the roll on the Motion to Approve Resolution 15-244 and it was  
27 Unanimously Approved. 7-0

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31 (16) Resolution No. 15-245: A Resolution Approving the Painting of a Mural Project to be  
32 Located on the West Exterior Wall of the Rio Grande Theatre.

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34 Mayor Pro-Tem Smith Moved to Approve Resolution 15-245 and Councillor Sorg Seconded the  
35 motion.

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39 Andy Hume, Downtown Coordinator for Community Development gave an overhead presentation.

40  
41 Irene Oliver Lewis gave an overhead presentation.

1  
2 Councillor Levatino asked is this part of the building historic?  
3  
4 Andy Hume said no, this part of the building is not historic.  
5  
6 Irene Oliver Lewis said the reason we decided on this location is because we need something on  
7 Water Street.  
8  
9 Councillor Levatino asked does it have a cost?  
10  
11 Irene Oliver Lewis said it's a \$10,000 project but it's free to the City and we wrote it into the grant.  
12  
13 Councillor Levatino asked who is going to maintain this?  
14  
15 Andy Hume said the artist is responsible for maintaining it and the City will have joint ownership.  
16  
17 Councillor Levatino asked are those details that we need to approve?  
18  
19 Andy Hume said that type of work is down at staff level.  
20  
21 Councillor Levatino asked is State Historic Preservation approval the only thing we're waiting for  
22 after approval from the Council?  
23  
24 Andy Hume said there's a 30 day comment period available to them and we're in that period now.  
25  
26 Mayor Pro-Tem Smith said in addition to approval of the mural we need to make sure the Council  
27 is comfortable with what's being done to the historic building. Will it truly be 12 x 16 and centered  
28 above the stage door?  
29  
30 Irene Oliver Lewis said no, we said 12 x 16 in the presentation but we know it will be much larger.  
31  
32 Councillor Sorg asked will Sebastian be here in 10 years for maintenance?  
33  
34 Andy Hume said those are arrangements that will be worked out in an agreement, but we would  
35 prefer that the artist come back to maintain their work.  
36  
37 Councillor Pedroza said I know in other cities the Convention and Visitors Bureau points out places  
38 like this in a brochure so hopefully that will happen here too.  
39  
40 Councillor Silva asked are there any plans to put a plaque at eye level that would inform residents  
41 of the items on the mural?

1  
2 Irene Oliver Lewis said we will talk to Andy about making a plaque.

3  
4 -----

5  
6 Mayor Pro-Tem Smith Moved to Amend Resolution 15-245 to change the size from 12 x 16 to  
7 approximately 20 x 60 and Councillor Pedroza Seconded the motion.

8  
9 Mayor Miyagishima called for the roll on the Motion to Amend Resolution 15-245 to change the size  
10 from 12 x 16 to approximately 20 x 60 and it was Unanimously Approved. 7-0

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13  
14 Jack Eckman, Member of the Public said he would like to see soft architectural lighting added.

15  
16 -----

17  
18 Mayor Miyagishima called for the roll on the Motion to Approve Resolution 15-245 as Amended  
19 and it was Unanimously Approved. 7-0

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23 (17) Resolution No. 15-246: A Resolution to Adopt the Klein Park Conceptual Master Plan and  
24 accept the Consultant Recommendation for Phase One Design and Construction.

25  
26 Councillor Silva Moved to Approve Resolution No. 15-246 and Mayor Pro-Tem Smith Seconded  
27 the motion.

28  
29 Eric Martin gave an overhead presentation.

30  
31 Councillor Silva said the neighborhood and residents approached Representative Steinborn and  
32 Senator Carter for funding to approve the park. After approval, we realized we didn't have a master  
33 plan, which is how this resolution came about. In April, we met with Representative Steinborn and  
34 Senator Carter to make sure we were on track with the funding. I think this will serve as a template  
35 as to how we can address other parks in the City.

36  
37 Councillor Sorg said I think there is something wrong when we're redoing existing parks when  
38 there's thousands who don't have a neighborhood park at all and I think we need to keep our  
39 priorities straight.

40  
41 Mayor Pro-Tem Smith asked is the restuccoing of the walls and the ADA compliance for corners of  
42 the access going to be the extent of phase one?

43

1 Eric Martin said that is correct. If we have any additional funds, we'll see how many other amenities  
2 we can pick up.

3  
4 Councillor Small asked is there a plan to work with local artists on things like the wall and other  
5 improvements?

6  
7 Eric Martin said we will look at opportunities to see what we can do to add murals.

8  
9 Councillor Small asked is the stage part of the initial work or in a later phase?

10  
11 Eric Martin said that is part of the initial work and part of that is adding electrical.

12  
13 Councillor Pedroza said it would be helpful to find out which lights are metered and which are not  
14 as we could stretch our money and put in much better amenities in all the neighborhoods. I would  
15 like to find out about solar lights for the park to make them safer and more affordable.

16  
17 Arianna Parsons, Member of the Public said one of the issues we had in the neighborhood was that  
18 there was a camera in the park and we were never able to access the information so we need to  
19 communicate that information to the neighborhood associations.

20  
21 Councillor Silva said I believe we will be upgrading where we're storing camera information.

22  
23 Eric Martin said yes, we've been working with different departments to set aside money.

24  
25 -----  
26  
27 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 15-246 and it was  
28 Unanimously Approved. 7-0

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32 (18) Resolution No. 15-247: A Resolution for Approval of an Amendment to the Management  
33 Agreement between the City of Las Cruces (City) and the Dona Ana Arts Council (DAAC)  
34 for Operation of the Rio Grande Theatre (RGT), Located at 211 North Main Street, Las  
35 Cruces, New Mexico, Increasing the Contract Amount to \$120,000.00 for Year Two of a  
36 Possible Five Year Management Agreement Subject to Annual City of Las Cruces Council  
37 Approval.

38  
39 Councillor Silva Moved to Approve Resolution 15-247 and Councillor Small Seconded the  
40 motion.

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1  
2 Eric Martin gave an overhead presentation.  
3  
4 Councillor Silva asked can you explain the increase to \$120,000?  
5  
6 Kathleen Albers, Executive Director of the Doña Ana Arts Council said it costs \$300,000 a year  
7 to operate. When we went into negotiations the first year we asked for \$100,000 as a starting  
8 point to see how this first year was going to go. So the \$20,000 was an increase that we  
9 negotiated that we could look at how we could increment it over the five year term. Some of it  
10 pays for artistic talent that comes in.  
11  
12 Councillor Silva said it would be worth having a work session to explain these numbers in more  
13 detail.  
14  
15 Kathleen Albers said this has allowed us to level out the cash flow and pay performers.  
16  
17 Mayor Pro-Tem Smith said I agree with Councillor Silva that this is a great asset and I am in  
18 favor of a continued relationship and adequate support.  
19  
20 Councillor Sorg said I would like more details on what the money is spent on. I would like to  
21 know how you managed before we gave you \$100,000 last year but also why the extra \$20,000  
22 now. How much did the Council have to pay for Janice Ian beyond ticket sales?  
23  
24 Kathleen Albers said we've provided information to staff on an event by event basis. This year  
25 we didn't make enough to cover the cost of events even with the help of Council.  
26  
27 Councillor Sorg asked would an example of a capital expenditure be the new sound system?  
28  
29 Kathleen Albers said yes, and that was separate from the management agreement.  
30  
31 Councillor Levatino said I agree with Councillor Sorg to have a more detailed breakdown.  
32  
33 Councillor Pedroza said I would feel more comfortable voting yes or no if I had more details of  
34 what the additional money is needed for so let's do a work session.  
35  
36 Councillor Small said voting yes on this today I see it much in line with the policy that has been  
37 set by the community of investing in infill areas.  
38  
39 Kathleen Albers said the arts have been proven to be an economic driver.  
40  
41 -----  
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43 Mayor Miyagishima called for the roll on the Motion to Approve Resolution 15-247 and it was

1 Unanimously Approved. 7-0

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5 **X. BOARD APPOINTMENTS**

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7 There were no board appointments.

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

14

15 (19) Council Bill No. 15-039; Ordinance No. 2758: An Ordinance Approving a Zone Change  
16 from A-2 (Rural Agricultural) to EEC (Equestrian Estates Conditional) for the Northern  
17 2.71± Acres and to C-3 (Commercial High Intensity) for the Southern 1.5± Acres for a Parcel  
18 Totaling 4.21+ Acres Located at 1840 (FKA 1900) Avenida De Mesilla, Parcel 02-26820.  
19 Submitted by Shawna Runyan on Behalf of Thomas Runyan and James Hill, Property  
20 Owners (Z2886).

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22 Mayor and Council agreed to bring back this item.

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26 (20) Council Bill No. 15-040; Ordinance No. 2759: An Ordinance Creating a Municipal Lien for  
27 the Construction of Sonoma Ranch Boulevard from Sierra Ventana Avenue to  
28 Approximately One-Half Mile North of Arroyo Road; Arroyo Road from Red Hawk Golf  
29 Road to Sonoma Ranch Boulevard; Approximately One and One-Half Miles of Red Hawk  
30 Golf Road; Approximately Two-Thirds of a Mile of Peachtree Hills Road; Associated  
31 Utilities Including Sanitary Sewer Infrastructure; and a Regional Drainage System for the  
32 Pre-Development Flows Only and on the Real Property Benefiting from said Construction

33

34 Mayor and Council agreed to bring back this item.

35

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38 **XII. CITY COUNCIL MEMBER BOARD REPORTS**

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40 There were no City Council member board reports.

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1 **XIII. GENERAL DISCUSSION**

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3 a.) Mayor

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5 Mayor Miyagishima said I was at the Mayor's Conference last week and they released economic  
6 factors, which said Las Cruces is going to grow at a 4% increase. They elected a new president  
7 and we got to visit some high tech companies.

8

9 -----

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11 b.) City Council

12

13 Councillor Smith said it was a great Fourth of July weekend and kudos to the staff members and  
14 Rob Caldwell for pulling off the event.

15

16

17

18 Councillor Levatino said last Tuesday I was able to represent the City at the Santa Fe Opera.

19

20 -----

21

22 Councillor Sorg said Mayor Pro-Tem Smith and I attended the New Mexico Municipal League  
23 committee meetings a week ago Saturday for the Environment, Energy, Natural Resources  
24 Policies. There was approval of a few resolutions dealing with water.

25

26 -----

27

28 Councillor Small said we have not seen what the intervention consists of in the El Paso Electric  
29 Rate Case.

30

31 He said I want to thank the members of the Council for supporting the Amador Proximo  
32 Redevelopment Charette.

33

34 He said there needs to be a full accounting of both the benefits as well as some of the difficulties  
35 of the Fourth of July out at Tashiro Road.

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39 Councillor Pedroza said I think the Councillor comments are extremely helpful and I'm proud of  
40 everyone and what they do.

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1 She said I went up to Albuquerque at the invitation of Representative Jeff Steinborn. We went to  
2 visit the sound stages so that we can get ready for this in Las Cruces. We need to seriously look  
3 at this so that we can benefit from it.

4

5 She said I saw in the paper that we are finally getting the bathrooms at Young Park, which is very  
6 good.

7

8 She said I looked at the condition of the tennis courts this morning and it's a little scary. The  
9 courts are very cracked and I think someone should go out and take a look so we can possibly  
10 find the money to repair it.

11

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13

14 Councillor Silva said I was also at the New Mexico Municipal League and I was on the Policy  
15 Committee. We discussed the hold harmless and also how cities issue business licenses. We  
16 also discussed the difference between policies and resolutions.

17

18 He said I want to thank everyone who was involved with the Fourth of July event.

19

20 He said I was involved in the 1K and 5K run and I want to thank Rob Caldwell, Lawrence Joy,  
21 and the Las Cruces Run Club for putting on a really great event.

22

23 He said I want to address the San Jose Cemetery where the wall was broken. I was hoping the  
24 City could take a look at those streets that tee into that wall.

25

26 He said today we approved two Downtown projects and there continues to be many events in the  
27 Downtown.

28

29 He said I want to say happy birthday to Maria Lopez who turns 105 years old today.

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33 c.) City Manager

34

35 Mark Winson, Assistant City Manager said everything is well under control in Robert Garza's  
36 absence.

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40 Mayor Pro-Tem Smith Moved to Adjourn and Councillor Levatino Seconded the motion.

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

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1 Council said "Aye."

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3 **Meeting Adjourned at 3:37 p.m.**

DRAFT