



City Council  
of the  
City of Las Cruces

Regular Meeting

July 20, 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. Councillor Silva 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.

Councillor Silva presented a Proclamation to Camille Garduno and declared Thursday, July 23, 2015 as American with Disabilities Act Awareness Day.

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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?

There was none.

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3 **III. PUBLIC PARTICIPATION**

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5 Emma Murillo, Member of the Public said I received information from El Paso Electric about the  
6 new rate case. I couldn't understand it and need help with that. I move that Las Cruces create their  
7 own public utility company. There are also no sidewalks for me to use my wheelchair from Campo  
8 Street to Mesquite Street.

9

10 Annie Barva, Member of the Public and Secretary of the Las Cruces Tennis Players Association said  
11 we need some repair work to be done at the Lions Park Tennis Courts. Our understanding is that  
12 there was some money leftover from courts 9-12 and those funds would be used to do some repair  
13 work. We talked to Mark Johnston about this eight months ago and it still hasn't been done.  
14 Keeping the courts in shape is good for the City's health.

15

16 Maggie Follin, Member of Public and Vice President of LCTPA said there is a lot going on at Lions  
17 Park. The USTA does have grant money and I've been pursuing money for a year and a half. I was  
18 told that the LCTPA Board is too small a group to get this grant for resurfacing the courts. They  
19 encouraged me to ask the City to become involved in the grant process.

20

21 Susan Martinez de Gonzales, Member of the Public and Chief Executive Officer for La Clinica de  
22 Familia said I want to thank you for your support. The clinic should be happening in July of 2016.  
23 We are going to be having a morphing on August 19<sup>th</sup> and invite you to attend.

24

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

30

31 Mayor Pro-Tem Smith Moved to Approve the Agenda as Presented and Councillor Silva Seconded  
32 the motion.

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

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41 **V. CITY COUNCIL MINUTES**

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43 \*(1) Regular City Council Meeting of June 15, 2015

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

\*(2) Resolution No. 16-001: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction for a Public Celebration Permit Application from High Desert Brewing Company for the “Acting on a Dream” Festival, an Event at the Las Cruces Community Theater, 313 North Main Street, on Friday, August 14, 2015.

\*(3) Resolution No. 16-002: A Resolution Authorizing High Desert Brewing Company to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer During the “Acting on a Dream” Festival, an Event at the Las Cruces Community Theater, 313 North Main Street, on Friday, August 14, 2015.

\*(4) Resolution No. 16-003: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction to High Desert Brewing Company for the Public Celebration Permit Application Submitted for the Spirit of ‘45 Veterans’ Tribute Dinner to be Held on Main Street on August 14, 2015.

\*(5) Resolution No. 16-004: A Resolution Authorizing High Desert Brewing Company to Continue with the Permitting Process to Allow for the Sale and Consumption of Beer Within a Restricted and Secured Area at the Spirit of ‘45 Veterans’ Tribute Dinner to be Held on Main Street on August 14, 2015.

\*(6) Resolution No. 16-005: A Resolution Approving the Issuance of a Waiver of the Church/School Distance Restriction to Rio Grande Vineyards & Winery for the Public Celebration Permit Application Submitted for the Spirit of ‘45 Veterans’ Tribute Dinner to be Held on Main Street on August 14, 2015.

\*(7) Resolution No. 16-006: A Resolution Authorizing Rio Grande Vineyards & Winery to Continue with the Permitting Process to Allow for the Sale and Consumption of Wine within a Restricted and Secure Area at the Spirit of ‘45 Veterans’ Tribute Dinner to be Held on Main Street on August 14, 2015.

\*(8) Resolution No. 16-007: A Resolution Approving a Waiver from 100% of the Required Road Improvements to 352.12± Linear Feet of N. 17<sup>th</sup> Street Associated with a Proposed Subdivision Plat Known as Rumah Indah Subdivision on a 4.33± Acre Parcel Located at 2160 W. Picacho Avenue. Submitted by The Borderland Engineers and Surveyors on Behalf of Barang Indah, LLC, Property Owner (S-15-010W).

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

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3 (9) Resolution No. 16-008: A Resolution Approving the Issuance of a Waiver of the  
4 Church/School Distance Restriction for a Restaurant Liquor License (Beer and Wine) to K-  
5 Bob’s Steakhouse, Located at 1660 South Valley Drive, Las Cruces, New Mexico.

6  
7 Councillor Silva Moved to Approve Resolution No. 16-008 and Councillor Small Seconded the  
8 motion.

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11  
12 Mayor Miyagishima asked has there been any objections to the issuance of a waiver?

13  
14 Rusty Babington, City Attorney said there have been no objections or comments on that particular  
15 waiver.

16  
17 DRAFT  
18

19 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-008 and it was  
20 Unanimously Approved. 7-0

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24 (10) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 16-009;**  
25 **A PUBLIC HEARING MUST BE HELD:** Resolution No. 16-009: A Resolution  
26 Approving the Issuance of a Restaurant Liquor License (Beer and Wine) to Spacelake, LLC  
27 D/B/A K-Bob’s Steakhouse Located at 1660 South Valley Drive, Las Cruces, New Mexico

28  
29 Mayor Miyagishima said the Public Hearing for Resolution No. 16-009 is now open. Is there anyone  
30 who wishes to speak against this item?

31  
32 No one spoke.

33  
34 Mayor Miyagishima said the Public Hearing for Resolution No. 16-009 is now closed.

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38 Councillor Pedroza Moved to Approve Resolution No. 16-009 and Councillor Levatino Seconded  
39 the motion.

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1 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-009 and it was  
2 Unanimously Approved. 7-0

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7 (11) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 16-010;**  
8 **A PUBLIC HEARING MUST BE HELD:** Resolution No. 16-010: A Resolution  
9 Approving the Issuance of a Restaurant Liquor License (Beer and Wine) to Habaneros Fresh  
10 Mex, LLC D/B/A Habaneros Fresh Mex Located at 600 East Amador, Las Cruces, New  
11 Mexico

12

13 Mayor Miyagishima said the Public Hearing for Resolution No. 16-010 is now open. Is there anyone  
14 who wishes to speak against this item?

15

16 No one spoke.

17

18 Mayor Miyagishima said the Public Hearing for Resolution No. 16-010 is now closed.

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22 Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-010 and Councillor Levatino Seconded  
23 the motion.

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27 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-010 and it was  
28 Unanimously Approved. 7-0

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32 (12) Resolution No. 16-011: A Resolution to Approve the Quarterly Financial Report to the New  
33 Mexico Department of Finance and Administration for the Period Ending June 30, 2015.

34

35 Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-011 and Councillor Silva Seconded  
36 the motion.

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40 Joshua Munoz, Senior Financial Reporting Analyst gave an overhead presentation.

41

42 Councillor Small asked is there any update as far as the reporting accuracy from the State?

43

1 Robert Garza said there has been some willingness on behalf of Tax and Rev to provide more  
2 information. There's some protections against giving us information about a specific business. City  
3 managers from all over the State are working with them to come up with some better templates or  
4 categories of information they can give us.

5  
6 Councillor Sorg asked how were the expenditures and revenues different from projected?  
7

8 Mark Winson said our revenues came in at 1.3% below and our expenditures came in about 8.5%  
9 below.

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12

13 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-011 and it was  
14 Unanimously Approved. 7-0

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18 (13) Resolution No. 16:012: A Resolution Approving a Reimbursement Agreement with Sierra  
19 Norte Development Inc. for Construction of One (1) Neighborhood Park within Metro Verde  
20 South Phase 1E Subdivision and Amending the FY 2016 Budget and FY 2016 Capital  
21 Improvement Program (CIP).

22

23 Councillor Silva Moved to Approve Resolution No. 16-012 and Mayor Pro-Tem Smith Seconded  
24 the motion.

25

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27

28 Mark Johnson, Parks and Rec Director gave a verbal presentation.

29

30 Councillor Sorg asked could you give us an idea of what those other park developments are that  
31 you'll be using the remaining funds for?

32

33 Mark Johnson said in Capital Improvement Outlay projects we have Metro Verde, Del Rey  
34 Neighborhood Park, remote control track, remote control airplane field, and Ora Vista.

35

36 Councillor Pedroza asked how soon are the restrooms at Young Park going to be done?

37

38 Mark Johnson said it looks like mid August and Sagecrest will shortly follow.

39

40 Councillor Pedroza said at some point can you give me an idea of why private entities can do  
41 construction more cheaply than City government.

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- 1 Councillor Silva asked would this park normally be \$180,000 and how do we measure that?  
2
- 3 Mark Johnson said the square foot measurement is the best way. When we go out for a bid, it is a  
4 complete specification.  
5
- 6 Councillor Silva asked how far of a time frame build out do you have?  
7
- 8 Mark Johnson said I'm anticipating a 12 month to 18 month build out on this one.  
9
- 10 Councillor Silva asked what's the time limit on those 58 homes being built?  
11
- 12 Mark Johnson said we're probably 12-18 months. It's going hand-in-hand with our development.  
13
- 14 Councillor Silva asked is the funding for this coming out of the Park Impact Fee Fund?  
15
- 16 Mark Johnson said we don't pay until the park is built.  
17
- 18 Councillor Silva asked the 58 homes still aren't built, right?  
19
- 20 Mark Johnson said they are not. We are going to use the money from that surrounding area.  
21
- 22 Councillor Silva asked is that out of the Park Impact Fund or General Fund?  
23
- 24 Mark Johnson said Park Impact Fees.  
25
- 26 -----  
27
- 28 Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-012 and it was  
29 Unanimously Approved. 7-0  
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- 31 -----  
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- 33 (14) Council Bill No. 15-039; Ordinance No. 2758: An Ordinance Approving a Zone Change  
34 from A-2 (Rural Agricultural) to EEC (Equestrian Estates Conditional) for the Northern  
35 2.71± Acres and to C-3 (Commercial High Intensity) for the Southern 1.5± Acres for a Parcel  
36 Totaling 4.21± Acres Located at 1840 (FKA 1900) Avenida De Mesilla, Parcel 02-26820.  
37 Submitted by Shawna Runyan on Behalf of Thomas Runyan and James Hill, Property  
38 Owners (Z2886).  
39
- 40 Councillor Sorg Moved to Approve Council Bill No. 15-039; Ordinance No. 2758 and Councillor  
41 Levatino Seconded the motion.

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Katherine Harrison-Rogers, Senior Planner gave an overhead presentation.

Councillor Small said I have gotten feedback from neighbors who are excited about this and didn't express any concerns. I would steer away from expanding on any conditions as they are already broad.

Councillor Sorg asked why does the applicant want to go to EEC?

Katherine Harrison-Rogers said the A-2 zone no longer exists. They need to come into compliance and in order to do that they have to re-zone it.

Councillor Sorg asked can you tell us about the availability of utilities for this property?

Katherine Harrison-Rogers said that utilities do run through Avenida de Mesilla so this shouldn't be an issue but I may need to do some research with our utilities department.

Councillor Sorg asked so water and gas should be available?

Katherine Harrison-Rogers said is should be available within the roadway.

Councillor Sorg asked does this property have water rights?

Katherine Harrison-Rogers said my understanding is that there are no water rights.

Councillor Sorg asked has the government of the Town of Mesilla made any comments said anything about this zone change?

Katherine Harrison-Rogers said they were notified and we received no comments.

Councillor Levatino asked do we have a definition for what is a large animal versus a small animal?

Katherine Harrison-Rogers said we do. Chapter 7 of our municipal code differentiates a large animal and a small animal.

Mayor Pro-Tem Smith said I think we need to make those efforts to maintain agricultural presence where possible.

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1 Mayor Miyagishima called for the roll on the Motion to Approve Council Bill 15-039; Ordinance  
2 No. 2758 and it was Unanimously Approved. 7-0

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5

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

13

14 Mayor Pro-Tem Smith Moved to Approve Council Bill No. 15-040; Ordinance No. 2759 and  
15 Councillor Sorg Seconded the motion.

16

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19 Mark Krawczyk, Treasurer gave an overhead presentation.

20

21 Councillor Small asked if this were tested in court, how does the City come out ahead knowing  
22 we contested with many other institutions?

23

24 Rusty Babington, City Attorney said there's a particular statute that identifies a municipal lien as  
25 being in first position by State Statute. What we are doing with this transaction is requiring any  
26 lien holder to subordinate by consent saying we recognize that by granting this municipal lien we  
27 will now be in second position to your municipal lien.

28

29 Councillor Small asked have all the other lien holders signed that consent?

30

31 Rusty Babington said we are in the process of doing that right now. Sierra Norte, LCC and  
32 Metro Verde has been made aware of the requirement. They're obligated to work towards that  
33 requirement and get the consent forms. They are in the process of providing us title reports so  
34 we can check if there is a lien on a particular piece of property and whether that lien holder has  
35 consented.

36

37 Councillor Small asked what is the time frame when the process is expected to be completed and  
38 if the process is not complete what is the status of this ordinance?

39

40 Rusty Babington said it's my understanding that the notice of the sale will probably go out  
41 tomorrow. The sale will occur on the 30<sup>th</sup> of July. If all the prerequisites have not been met  
42 before the 30<sup>th</sup> of July then it will probably be up to the City Manager and Council to determine  
43 what course of action we're going to take at that particular time.

1  
2 Councillor Small asked if it is not done by that time, it is up to the Mayor and Council to set a  
3 course forward?  
4  
5 Rusty Babington said I think the recommendation from staff is that we would be reluctant to go  
6 ahead without those assurances.

7  
8 Councillor Sorg said we need to find ways to make our infill areas more attractive.

9  
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11  
12 Mayor Miyagishima called for the roll on the Motion to Approve Council Bill No. 15-040;  
13 Ordinance No. 2759 and it was Unanimously Approved. 7-0

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17 **X. BOARD APPOINTMENTS**

18  
19 Councillor Sorg appointed Kalonji Mwanza (District 5 position) to the Health and Human  
20 Services Advisory Committee.

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23  
24 Mayor Miyagishima reappointed Sylvia Lauer (Land Title Industry position) to the Affordable  
25 Housing Land Bank & Trust Fund Advisory Committee.

26  
27 Councillor Small Moved to Approve Mayor Miyagishima's board reappointment of Sylvia Lauer  
28 (Land Title Industry position) to the Affordable Housing Land Bank & Trust Fund Advisory  
29 Committee and Councillor Sorg Seconded the motion.

30  
31 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board  
32 reappointment of Sylvia Lauer (Land Title Industry) to the Affordable Housing Land Bank &  
33 Trust Fund Advisory Committee and it was Unanimously Approved. 7-0

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36  
37 Mayor Miyagishima appointed Richard M. Jackson (District 4 position) to the Senior Programs  
38 Advisory Board.

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40 Councillor Sorg Moved to Approve Mayor Miyagishima's board appointment of Richard M.  
41 Jackson (District 4 position) to the Senior Programs Advisory Board and Councillor Small  
42 Seconded the motion.

1  
2 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board  
3 appointment of Richard M. Jackson (District 4 position) to the Senior Programs Advisory Board  
4 and it was Unanimously Approved. 7-0

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8 Mayor Miyagishima appointed Stella Harvey (NMSU position) to the Transit Advisory Board.  
9

10 Councillor Sorg Moved to Approve Mayor Miyagishima's board appointment of Stella Harvey  
11 (NMSU position) to the Transit Advisory Board and Councillor Smith Seconded the motion.  
12

13 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board  
14 appointment of Stella Harvey (NMSU position) to the Transit Advisory Board and it was  
15 Unanimously Approved. 7-0

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19 Mayor Miyagishima reappointed Lawrence Orvis (AM Leg #10 position), Patrick Ramirez (VFW  
20 10124 position), and Fred Schneider (Vietnam Veterans position) to the Veterans Advisory  
21 Board.  
22

23 Mayor Pro-Tem Smith Moved to Approve Mayor Miyagishima's board reappointments of  
24 Lawrence Orvis (AM Leg #10 position), Patrick Ramirez (VFW 10124 position), and Fred  
25 Schneider (Vietnam Veterans position) to the Veterans Advisory Board and Councillor Sorg  
26 Seconded the motion.  
27

28 Mayor Miyagishima called for the roll on the Motion to Approve Mayor Miyagishima's board  
29 reappointments of Lawrence Orvis (AM Leg #10 position), Patrick Ramirez (VFW 10124  
30 position), and Fred Schneider (Vietnam Veterans position) to the Veterans Advisory Board.  
31 and it was Unanimously Approved. 7-0

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

38  
39 There were none.

40  
41 -----  
42

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

1  
2 There were no City Council member board reports.

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6 **XIII. GENERAL DISCUSSION**

7  
8 b.) City Council

9  
10 Councillor Silva said Acting in a Dream and Spirit of 45 Veterans on August 14<sup>th</sup> will be held in the  
11 Downtown mall. They are sponsored by Project Main Street.

12  
13 Councillor Silva said on July 31<sup>st</sup> at the Rio Grande Theater is a Promoting the Arts in Las Cruces.

14  
15 -----  
16  
17 Councillor Pedroza said August 19<sup>th</sup> at noon the metamorphosis will take place at the old City Office  
18 Center for the new Clinica de Familia.

19  
20 Councillor Pedroza said there is going to be a Barnes and Noble Book Fair July 31<sup>st</sup> and August 1<sup>st</sup>  
21 that includes the Branigan Library.

22  
23 Councillor Pedroza said there was an article in the paper honoring Denise Chavez. I will be bringing  
24 a resolution forward to honor her.

25  
26 -----  
27  
28 Councillor Small said after Amador Proximo we should be able to see new ways to help spur infill  
29 development.

30  
31 Councillor Small said the idea of an acute care mental hospital could be appropriate to our  
32 community.

33  
34 -----  
35  
36 Councillor Sorg said Spirit of 45 will be on August 14<sup>th</sup>. The Honor Flight Program is presenting  
37 that event.

38  
39 Councillor Sorg said I have given you a proposed resolution on the Endangered Species Act.

40  
41 -----  
42

1 Councillor Levatino said Spirit of 45 is on August 14<sup>th</sup>. It's the 70<sup>th</sup> Anniversary of the end of World  
2 War II. The proceeds of the tickets will go to Honor Flight.

3

4

5

6 Mayor Pro-Tem Smith asked do we have enough background on the Endangered Species Act to  
7 move it forward?

8

9 Robert Garza said I believe there is enough content.

10

11 Mayor Pro-Tem Smith said I would be happy to bring that forward.

12

13 Mayor Pro-Tem Smith said I support bringing a resolution forward regarding Denise Chavez.

14

15 Mayor Pro-Tem Smith said the groundbreaking for the plaza is on Friday.

16

17 Mayor Pro-Tem Smith said there have been some questions that have come up about why we have  
18 an infill zone.

19

20 Mayor Pro-Tem Smith said the New Horizons Spacecraft flew by Pluto last week hopefully to take  
21 pictures and reestablish itself as a planet.

22

23 Mayor Pro-Tem Smith said the new MVRDA Building will be opening up next October.

24

25

26

27 a.) Mayor

28

29 Mayor Miyagishima said at the last Council meeting I asked each of you to bring back a nonprofit  
30 so I could give away the mini iPad and I see none so bring them on August 3<sup>rd</sup>.

31

32

33

34 c.) City Manager

35

36 Robert Garza said we have a brief closed session after the meeting.

37

38 Robert Garza said we have a work session scheduled for next week and one of the items was the  
39 Arroyo Management Plan. We're not in position to come back to you all yet. We will defer it until  
40 August 24<sup>th</sup>.

41

- 1 Robert Garza said Young Park and Sagecrest Park restrooms will begin in August.  
2  
3 Councillor Small asked when was the Arroyo Management Plan originally scheduled to come to  
4 Council?  
5  
6 Robert Garza said the original timeline was eight years ago.  
7  
8 Councillor Small asked was it most recently to be heard in March?  
9  
10 Robert Garza said the Arroyo Management Plan was presented to you all in a work session. It hasn't  
11 been presented to you in the form of a resolution.  
12  
13 Councillor Small said it's shocking that we've been delayed over six months. There is one entity  
14 who seems to stop this from coming to the Council.  
15  
16 Robert Garza said I misspoke by saying we were only waiting on the State Land Office. There are  
17 many parties that have expressed a tremendous amount of concern. My recommendation is to take  
18 the time to address the concerns.  
19  
20 Councillor Sorg asked is it possible to put a deadline on the State Land Office?  
21  
22 Mayor Miyagishima said let me try to get members of the State Land Office at our Council meeting.  
23  
24 -----  
25  
26 Councillor Small Moved to Adjourn and Mayor Pro-Tem Smith Seconded the motion.  
27  
28 Mayor Miyagishima said all of those in favor signify by saying "Aye."  
29  
30 Council said "Aye."  
31  
32 **Meeting Adjourned at 2:46 p.m.**