



City Council  
of the  
City of Las Cruces

Regular Meeting

October 19, 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 (absent)  
Councillor Ceil Levatino, District 6

Robert Garza, City Manager  
Rusty Babington, City Attorney  
Linda Lewis, Interim City Clerk

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**I. OPENING CEREMONIES**

Mayor Miyagishima called the meeting to order. 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 the Mayor's Citation for Community Service to Eloisa Solis.

Mayor Miyagishima read a Proclamation and declared October 25, 2015, as The Friends of the Community Candy Drop 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?

1 There is none.

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5 **III. PUBLIC PARTICIPATION**

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7 Alice Anderson, Member of the Public said Rebecca DeHaven just spoke to you about how TNR can  
8 reduce cat colonies. There are three other articles that express similar views. Cat advocates are  
9 saying that the new stipulations for cat colonies are making it impossible, but I say please keep cat  
10 colony registration.

11

12 Merrie Lee Soules, Member of the Public said I'd like to talk about the El Paso Electric Rate Case.  
13 They asked for an additional rate increase to pay during a peak hour in the day for their two power  
14 plants. Then they are going to add 15% that they never expect to use. If we can shift the demand for  
15 electricity, we would use more of the capacity that we already have and reduce the requirement for  
16 additional capacity. We should offer more interruptible rates and the City can support that request.

17

18 Allen Downs, Member of the Public said El Paso Electric is a monopoly. One of the interveners in  
19 the case have suggested a Customer Choice rate with high prices when electric load is highest and  
20 lower rates at other times with a curtailment feature. We are asking for Council support.

21

22 Rocky Bacchus, Member of the Public said I'm the managing member of the One Hour Air  
23 Conditioning. The Customer Choice rate can lower rates for everyone. There's an advantage of more  
24 jobs.

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

31

32 Mayor Miyagishima said Item 8 will be presented before Item 7.

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36 Mayor Pro-Tem Smith Moved to Approve the Agenda as Amended and Councillor Levatino  
37 Seconded the motion.

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41 Mayor Miyagishima called for the roll on the Motion to Approve the Agenda with Item 8 heard  
42 before Item 7 and it was Approved. 6-0. Councillor Silva, Councillor Pedroza, Councillor Small,  
43 Councillor Levatino, Mayor Pro-Tem Smith, and Mayor Miyagishima voted aye. Councillor Sorg

1 was absent.

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

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7 \*(2) Resolution No. 16-097: A Resolution Authorizing the Application for the 2016-2020 Non-  
8 Metro Area Agency on Aging (NMAAA) Grant Funding Through the North Central New  
9 Mexico Economic Development District (NCNMEDD) for the Provision of Services for  
10 Eligible Senior Clients.

11

12 \*(3) Resolution No. 15-16-023: A Resolution Approving a Service Agreement for Event  
13 Coordination and Logistics Planning for the Las Cruces Country Music Festival with  
14 Dickerson’s Catering and Event Planning of Las Cruces, New Mexico in the Amount of  
15 \$125,000.00 plus Applicable Gross Receipts Tax for a Period of One Year with the Option  
16 to Renew for Four Additional Years, Subject to Approved Budget Appropriations and  
17 Annual Renewals.

18

19 \*(4) Resolution No. 15-16-041: A Resolution Awarding a Contract for the Development of the  
20 2016-2020 Consolidated Plan, Analysis of Impediments to Fair Housing Choice, 2016  
21 Annual Action Plan and Affordable Housing Plan for the City of Las Cruces, NM to  
22 Community Strategies Institute, Edgewater, Co., for the Contract Amount of \$114,670 plus  
23 \$9,531.94 for New Mexico Gross Receipts for a Total Project Authorization of \$124,201.94.

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27 **VI. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION**

28

29 (5) **BEFORE CONSIDERATION OF THE FOLLOWING RESOLUTION NO. 16-098;**  
30 **A PUBLIC HEARING MUST BE HELD: Resolution No. 16-098: A Resolution**  
31 **Approving the Transfer of Ownership to Liquor License No. 28033, with On Premise**  
32 **Consumption Only, to Blazin Wings, Inc. D/B/A Buffalo Wild Wings, Located at 2750 Mall**  
33 **Drive, Suite 600, Las Cruces, New Mexico.**

34

35 Mayor Miyagishima said the Public Hearing for Resolution No. 16-098 is now open. Is there anyone  
36 who wishes to speak against this item?

37

38 No one spoke.

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40 Mayor Miyagishima said the Public Hearing for Resolution No. 16-098 is now closed.

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Councillor Silva Moved to Approve Resolution No. 16-098 and Councillor Levatino Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-098 and it was Approved. 6-0. Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Levatino, Mayor Pro-Tem Smith, and Mayor Miyagishima voted aye. Councillor Sorg was absent.

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(6) Resolution No. 16-099: A Resolution Designating a Voting Delegate and Alternate(s) to Attend the Annual Business Meeting of the National League of Cities on Saturday, November 7, 2015, in Nashville, Tennessee.

Mayor Pro-Tem Smith Moved to Approve Resolution No. 16-099 and Councillor Small Seconded the motion.

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Councillor Small Moved to Amend Resolution No. 16-099 to add Councillor Sorg as the delegate and Mayor Pro-Tem Smith Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to Amend Resolution No. 16-099 and it was Approved. 6-0. Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Levatino, Mayor Pro-Tem Smith, and Mayor Miyagishima voted aye. Councillor Sorg was absent.

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Mayor Miyagishima called for the roll on the Motion to Approve Resolution No. 16-099 and it was Approved. 6-0. Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Levatino, Mayor Pro-Tem Smith, and Mayor Miyagishima voted aye. Councillor Sorg was absent.

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(8) Council Bill No. 16-006; Ordinance No. 2765: An Ordinance Repealing Article V, Section 38-49-2, South Mesquite Neighborhood Overlay Zone District, of the City of Las Cruces Municipal Code and Replacing it in its Entirety in Order to Update the South Mesquite Neighborhood Overlay Zone District (SMO) and Expand the Authority of the South Mesquite Design Review Board (SMDRB). Submitted by the City of Las Cruces (Case ZCA-15-02).

1 Mayor Pro-Tem Smith Moved to Approve Ordinance No. 2765 and Councillor Silva Seconded the  
2 motion.

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6 Mayor Pro-Tem Smith Moved to suspend the rules to discuss items 7 and 8 concurrently and  
7 Councillor Silva Seconded the motion.

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9 Mayor Miyagishima called for the roll on the Motion to suspend the rules to discuss items 7 and 8  
10 concurrently and it was Approved. 6-0. Councillor Silva, Councillor Pedroza, Councillor Small,  
11 Councillor Levatino, Mayor Pro-Tem Smith, and Mayor Miyagishima voted aye. Councillor Sorg  
12 was absent.

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

17

18 Mayor Pro-Tem Smith asked is this area the original town site?

19

20 Katherine Harrison-Rogers said I will rely on you for your historic knowledge.

21

22 Mayor Pro-Tem Smith asked do we have support from the neighborhood organizations?

23

24 Katherine Harrison-Rogers said the general consensus is yes.

25

26 Mayor Pro-Tem Smith asked are we pushing the time frame back to make sure we're doing right by  
27 our historic structures?

28

29 Katherine Harrison-Rogers said that is correct.

30

31 Councillor Silva asked how is the time factor discussed in your committee and staff?

32

33 Katherine Harrison-Rogers said I wasn't involved in a lot of the initial discussions. I will defer to  
34 the DRB.

35

36 Councillor Pedroza asked has this been tried elsewhere and is it too much of a burden on the review  
37 board?

38

39 Katherine Harrison-Rogers said we have tested the waters as far as what goes to the board. We also  
40 have another overlay that has a design review board and it's the same process.

41

42 Councillor Pedroza asked will this be adding more delay?

43

1 Katherine Harrison-Rogers said there may be some more delays, however, those who live in this area  
2 know that it is historic and may be prepared.

3

4 Emma Murillo, Member of the Public said I live on Mesquite and Las Cruces Avenue. We have a  
5 lot of rundown houses in my neighborhood. We do have the largest amount of adobe structures in  
6 the state.

7

8 Paul Borunda, Member of the Public asked what is the distinction between the Mesquite Street  
9 Historic District and the North Mesquite Street District?

10

11 Katherine Harrison-Rogers said East Picacho is the northern most boundary of the Mesquite District  
12 and the southern boundary is Colorado Avenue. When it was looked at for a neighborhood plan, it  
13 was one area. When it was implemented in the zoning code, South Mesquite and North Mesquite  
14 were distinguishable areas. The South Mesquite area elected to have a Design Review Board for  
15 more stringent requirements in terms of design standards. North Mesquite has its own provisions  
16 but don't have strict guidelines. A manufactured home is built to the same standard as a single  
17 family home. Single wide mobile homes are only allowed in the districts with an M.

18

19 Mayor Pro-Tem Smith asked are we required to allow manufactured homes or is there a condition  
20 where we could say the historic nature of the area precludes that?

21

22 Robert Kyle, Building and Development Services Administrator said under Federal law a  
23 manufactured home is allowed in any zone that would allow a single family residence. In the South  
24 Mesquite District there are provisions that it must be architecturally compatible. In terms of  
25 permitting, the City only provides a location permit. The construction company permits the  
26 installation.

27

28 Paul Borunda, Member of the Public said HUD guidelines state that any manufactured home that  
29 is allowed to be placed in a residential area must be placed on a permanent foundation.

30

31 Robert Kyle said I would have to defer to CID on the installation but I can look into it.

32

33 Councillor Silva asked what notification goes out to neighbors on the south side?

34

35 Katherine Harrison-Rogers said the notification process is similar to what we do for any project. It  
36 requires 100 feet certified mail and 500 feet regular mail 15 days before the meeting.

37

38 Councillor Silva asked what about manufactured homes?

39

40 Katherine Harrison-Rogers said it depends on the type of project. Area one, if it was not a historic  
41 structure did not require review by the Design Review Board. These amendments will make sure  
42 it does.

1  
2 Councillor Silva asked how do we move forward with the part that it has to fit the nature of the  
3 neighborhood?

4  
5 Katherine Harrison-Rogers said we do review portions.

6  
7 Robert Kyle said we do permit the placement and we would make it a condition of the permit that  
8 the manufactured home must be altered to meet the architectural characteristic. We would not  
9 finalize the permit until the conditions are met.

10  
11 Councillor Silva asked if they don't meet the characteristic component, do we ask them to remove  
12 it?

13  
14 Robert Kyle said we would ask them to alter it or remove it before we approve it.

15  
16 Councillor Levatino asked does part of the process for a manufactured home require it to be on a  
17 concrete slab?

18  
19 Robert Kyle said we don't regulate that. By state law they're allowed to be installed in accordance  
20 by what the manufacturer specifications require.

21  
22 Councillor Levatino asked could that be added?

23  
24 Robert Kyle said we are preempted from mandating what type of foundations they're placed on.

25  
26 Emma Murillo, Member of the Public said there is a mobile home across from the Munson center  
27 that doesn't have a permanent foundation. There is a space next to the Munson Center that I would  
28 like to put my double wide on.

29  
30 David Chavez, Member of the Public said this ordinance has been five years in the making. The  
31 Mesquite Historic District is the largest intact since 1849. We have 260 contributing structures in  
32 the Mesquite area. With our first ordinance, we had a lot of complaints.

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35  
36 Mayor Miyagishima called for the roll on the Motion to Approve Ordinance 2765 and it was  
37 Approved. 6-0. Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Levatino, Mayor  
38 Pro-Tem Smith, and Mayor Miyagishima voted aye. Councillor Sorg was absent.

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1 (7) Council Bill No. 16-005; Ordinance No. 2764: An Ordinance Repealing and Replacing Part  
 2 II, Chapter 2, Article IV, Division 3, Subdivision XVI. - South Mesquite Design Review  
 3 Board, Sec. 2-928. - Duties and Procedure, of the City of Las Cruces Municipal Code in  
 4 Order to Remain Consistent with Modifications to Article V, Section 38-49-2, South  
 5 Mesquite Neighborhood Overlay Zone District, of the City of Las Cruces Municipal Code.  
 6 Submitted by the City of Las Cruces.

7  
 8 Councillor Silva Moved to Approve Ordinance 2764 and Councillor Small Seconded the motion.  
 9

10 Mayor Miyagishima called for the roll on the Motion to Approve Ordinance 2764 and it was  
 11 Approved. 6-0. Councillor Silva, Councillor Pedroza, Councillor Small, Councillor Levatino, Mayor  
 12 Pro-Tem Smith, and Mayor Miyagishima voted aye. Councillor Sorg was absent.

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16 **VII. BOARD APPOINTMENTS**

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 18 There were no board appointments.

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

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 26 (9) Council Bill No. 16-007; Ordinance No. 2766: An Ordinance Authorizing the Issuance and  
 27 Sale of up to \$20,000,000 City of Las Cruces, New Mexico Joint Utility Improvement  
 28 Revenue Bonds to Improve the City's Joint Utility System.

29  
 30 Mayor and Council agreed to bring it back.

31  
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 33

34 (10) Council Bill No. 16-008; Ordinance No. 2767: An Ordinance Approving a Zone Change  
 35 from R-3 (Multi-Dwelling Medium Density) to R-3/C-3C (Multi-Dwelling Medium  
 36 Density/Commercial High Intensity-Conditional) for a 4.2± Acre Property Located at 801  
 37 E. Farney Lane, Parcel 02-11764. Submitted by Gary Krivokapich, Property Owner (Z2888).

38  
 39 Mayor Pro-Tem Smith asked are we in a quasi judicial situation with this?

40

41 Robert Kyle said that is correct.

1  
2 Mayor Pro-Tem Smith asked could we have a brief description of what Council is expected to do  
3 under such circumstances?

4  
5 Robert Kyle said it will come to the City Council for final action following recommendation by the  
6 Planning and Zoning Commission.

7  
8 Mayor Pro-Tem Smith asked are we constrained to how much we talk about it as it is a quasi judicial  
9 situation and will have to recuse ourselves if we do?

10  
11 Robert Kyle said that is correct. I would limit discussions with your constituency.

12  
13 Mayor Pro-Tem Smith asked would the final plan going back to the Planning and Zoning  
14 Commission present any problems?

15  
16 Robert Kyle said staff does have concerns with that. There was no specific requirement on what  
17 Planning and Zoning expected to see as it is subjective.

18  
19 Mayor Pro-Tem Smith asked would we be able to put a condition on it?

20  
21 Robert Kyle said that probably does fall under the authority of the City Council.

22  
23 Mayor and Council agreed to bring it back.

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27 **IX. CITY COUNCIL MEMBER BOARD REPORTS**

28  
29 Councillor Levatino said at the last Airport Advisory Board meeting we talked about taxiway  
30 painting, the mandatory hold lines, and the holding positions were repainted the last week of  
31 September and first week of October. There are three charters for the NMSU athletic team. We  
32 got board comments on chapters one and two of the Airport Action Plan and forwarded them to  
33 the Delta Airport consultants. Delta has requested a meeting to discuss visions and goals and  
34 also wants to meet with primary stakeholders. Osprey training was canceled due to  
35 thunderstorms.

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39 **X. GENERAL DISCUSSION**

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41 b.) City Council

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43 Councillor Silva said it was a sad week for Mesilla as Ms. Estelle Sanchez passed.

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2 He said this Friday at the Eastside Community Center they will be showcasing the historic homes  
3 in the neighborhood.

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7 Councillor Pedroza said the First Christian Church has been hosting a seminar series "Border  
8 Justice." The last one is October 25<sup>th</sup>. I attended the panel discussion on immigration.

9

10 She said on December 2<sup>nd</sup> the Veterans Theater will be at the Rio Grande presenting "Early  
11 Christmas."

12

13 She said in the New Mexico State Bar Bulletin there was an article on why civil asset forfeiture  
14 was abolished.

15

16 She said this Thursday here in City Hall is the Rio Grande Citizen's Forum.

17

18 She said I wanted to thank Dr. Garcia for the Demonstration Garden Guide.

19

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22 Councillor Small said the New Mexico Legislature goes into session in January. I've seen  
23 decreased leadership from the Doña Ana County Legislative Coalition and would suggest  
24 clarifying roles and responsibilities.

25

26 Robert Garza, City Manager said the Legislative Coalition advocates for projects regional in  
27 nature. It's not the only approach we're going to take to advocate for priorities.

28

29 Councillor Small said I appreciated the feedback on Customer Choice in lowering utility rates.

30

31 Robert Garza said we have talked about making sure the public knows of our efforts.

32

33 Councillor Silva asked has the City invested in larger projects?

34

35 Robert Garza said as City projects go for street maintenance, this is the biggest.

36

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38

39 Mayor Pro-Tem Smith said I want to thank Vince Banegas for working with me on a project. On  
40 Thursday at 6 pm there will be an opportunity for the public to come and talk about the triangular  
41 lots cutting through Missouri.

42

1 He said we do need the crime lab.

2

3 He said my mother saw the garden booklet and wanted to drive by utilities to see their garden.

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7 a.) Mayor

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9 Mayor Miyagishima said myself and Mayor Pro-Tem greeted the Governor and Secretary Barilla  
10 to welcome New Mexico Greenhouse Holdings.

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14 c.) City Manager

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16 Robert Garza said next Monday we have a TIDD board meeting at 1:00 pm and then the work  
17 session after.

18

19

20 Mayor Pro-Tem Smith Moved to Adjourn and Councillor Small Seconded the motion.

21

22 Mayor Pro-Tem Smith said all of those in favor signify by saying "Aye."

23

24 Council said "Aye."

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26 **Meeting Adjourned at 3:02 p.m.**

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DRAFT