COUNCIL BILL NO. 19-027
ORDINANCE NO. 2892

AN ORDINANCE TO REPEAL AND REPLACE THE EXISTING LAS CRUCES MUNICIPAL CODE (LCMC) 1997, AS AMENDED, CHAPTER 2, ARTICLE VI, PUBLIC RECORDS WITH A NEW VERSION ADOPTING STATE LAW.

The City Council is informed that:

WHEREAS, the New Mexico legislature adopted the Inspection of Public Records Act, NMSA § 14-2-1 et seq. ("IPRA") in 1993, which required government agencies to disclose public records upon request; and

WHEREAS, the City passed its own disclosure of public records ordinance on February 20, 2006 in Ordinance 2265, which enumerated and affirmed its transparency obligations pursuant to IPRA; and

WHEREAS, the New Mexico legislature has amended IPRA in 1998, 1999, 2003, 2005, and 2011; and

WHEREAS, the New Mexico legislature again amended IPRA with Senate Bill ("SB") 118 during the 2019 regular session, which exempted the disclosure of the identities of victims and witnesses of certain violent crimes, such as stalking, domestic violence, and sexual assault and clarified the provisions regarding the exemption of law enforcement records; and

WHEREAS, the proposed ordinance amends the City’s disclosure of public records ordinance, LCMC 1997, Chapter 2, Article VI, Public Records section, by adopting and following the procedures and provisions of IPRA, as amended, to be consistent with state law, including any future amendments to IPRA; and

WHEREAS, the proposed ordinance also creates a new subsection LCMC 1997, Chapter 2, Article VI, Public Records, Section 2-1353 regarding a records retention schedule, which enumerates that the City will follow either the state records
retention schedule pursuant to the Functional Retention and Disposition Schedule 1.21.2 New Mexico Administrative Code (NMAC) or a City created schedule that will be passed by resolution.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT Chapter 2, Article VI, Public Records, of the Las Cruces Municipal Code be amended to be consistent with state law and to read as follows:

"ARTICLE VI. - PUBLIC RECORD

Sec. 2-1351. - Posting of notice.

The Office of the City Clerk, the main bulletin board of City Hall, Thomas Branigan Memorial Library, and the City Police Department buildings shall have a notice posted to describe:

(1) The right of a person to inspect public records;

(2) Procedures for requesting inspection of public records;

(3) Procedures for requesting copies of public records;

(4) Reasonable fees for copying public records; and

(5) The responsibility of the City to make public records available for inspection as in section 2-1352.

Sec. 2-1352. - Inspection of public records policy.

Everyone has a right to inspect any public record of the City. Therefore, the City will fulfill its transparency obligations by adopting and following the procedures and provisions of the Inspection of Public Records Act (IPRA), NMSA, 1978 § 14-2-1, et seq., as amended.

Sec. 2-1353. – Records Retention.

The City shall retain public records pursuant to either the Functional Retention and Disposition Schedule 1.21.2 New Mexico Administrative Code (NMAC) or a retention schedule established by resolution."
(II)

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

DONE AND APPROVED on this 17 day of June, 2019.

APPROVED:

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk

(SEAL)

Moved by: Smith
Seconded by: Eakman

VOTE:
Mayor Miyagishima: Aye
Councilor Gandara: Aye
Councilor Smith: Aye
Councilor Vasquez: Absent
Councilor Eakman: Aye
Councilor Sorg: Absent
Councilor Flores: Aye

APPROVED AS TO FORM:

[Signature]
City Attorney
Council Action and Executive Summary

Item # 7  Ordinance/Resolution# 2892

For Meeting of June 3, 2019 (Ordinance First Reading Date) For Meeting of June 17, 2019 (Adoption Date)

Please check box that applies to this item:
- [ ] QUASI JUDICIAL  - [x] LEGISLATIVE  - [ ] ADMINISTRATIVE

TITLE: AN ORDINANCE TO REPEAL AND REPLACE THE EXISTING LAS CRUCES MUNICIPAL CODE (LCMC) 1997, AS AMENDED, CHAPTER 2, ARTICLE VI, PUBLIC RECORDS WITH A NEW VERSION ADOPTING STATE LAW.

PURPOSE(S) OF ACTION:

To amend the Municipal Code.

COUNCIL DISTRICT: N/A

<table>
<thead>
<tr>
<th>Drafter/Staff Contact:</th>
<th>Department/Section:</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert A. Cabello</td>
<td>Legal/City Attorney</td>
<td>(575) 541-2019</td>
</tr>
</tbody>
</table>

Interim City Manager Signature: William F. Studer, Jr.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The New Mexico legislature adopted the Inspection of Public Records Act, NMSA § 14-2-1, et seq. ("IPRA") in 1993, which mandated transparency by requiring government agencies to disclose public records upon request. To affirm its transparency obligations, the City passed its own disclosure of public records ordinance on February 20, 2006 with Ordinance 2265.

The New Mexico legislature has amended IPRA in 1998, 1999, 2003, 2005, and 2011 in response to developing case law. Again, the New Mexico legislature amended IPRA with Senate Bill ("SB") 118 during the 2019 regular session, which exempted the disclosure of the identities of victims and witnesses of certain violent crimes, such as stalking, domestic violence, and sexual assault and clarified the provisions regarding the exemption of law enforcement records.

The City desires that its disclosure of public records ordinance be consistent with changes in state law. The proposed ordinance amends the City's disclosure of public records ordinance, LCMC Chapter 2, Article VI, Public Records section, by adopting and following the procedures and provisions of IPRA, as amended, to be consistent with state law, including any future amendments to IPRA.

Rev. 05/2018
SUPPORT INFORMATION:

1. Ordinance.

SOURCE OF FUNDING:

<table>
<thead>
<tr>
<th>Is this action already budgeted?</th>
<th>Yes</th>
<th>See fund summary below</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>No</td>
<td>If No, then check one below:</td>
</tr>
<tr>
<td>Budget Adjustment Attached</td>
<td></td>
<td>Expense reallocated from:</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Proposed funding is from a new revenue source (i.e. grant; see details below)</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Proposed funding is from fund balance in the Fund.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does this action create any revenue?</th>
<th>Yes</th>
<th>Funds will be deposited into this fund: in the amount of $ for FY</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>No</td>
<td>There is no new revenue generated by this action.</td>
</tr>
</tbody>
</table>

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

<table>
<thead>
<tr>
<th>Fund Name(s)</th>
<th>Account Number(s)</th>
<th>Expenditure Proposed</th>
<th>Available Budgeted Funds in Current FY</th>
<th>Remaining Funds</th>
<th>Purpose for Remaining Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

OPTIONS / ALTERNATIVES:

1. Vote “Yes”; this will approve the Ordinance and the proposed amendments by repeal and replacement contained therein to LCMC 1997, Chapter 2, Article VI, Public Records.
2. Vote “No”; this will not approve the Ordinance, and would mean that the current section, LCMC 1997, Chapter 2, Article VI, Public Records, would remain unchanged.
3. Vote to “Amend”; this would allow City Council to modify the proposed Ordinance.
4. Vote to “Table”; this would postpone decision to amend the Ordinance and would allow City Council to further direct staff.

REFERENCE INFORMATION:

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

N/A

(Continue on additional sheets as required)

Rev. 05/2018
COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of  
June 3, 2019  
(Ordinance First Reading Date)  
For Meeting of  
June 17, 2019  
(Adoption Date)

TITLE: AN ORDINANCE TO REPEAL AND REPLACE THE EXISTING LAS CRUCES MUNICIPAL CODE (LCMC) 1997, AS AMENDED, CHAPTER 2, ARTICLE VI, PUBLIC RECORDS WITH A NEW VERSION ADOPTING STATE LAW.

Purchasing Manager's Request to Contract (PMRC) {Required?}  Yes ☐  No ☒

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>SIGNATURE</th>
<th>PHONE NO.</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drafter/Staff Contact</td>
<td></td>
<td>541-2128</td>
<td>05/22/19</td>
</tr>
<tr>
<td>Department Director</td>
<td></td>
<td>541-2128</td>
<td>05/22/19</td>
</tr>
<tr>
<td>Budget</td>
<td>Leann DeMiche</td>
<td>541-2107</td>
<td>5/23/19</td>
</tr>
<tr>
<td>Interim Assistant City Manager/Barbara DeLeon</td>
<td></td>
<td>541-2100-29</td>
<td>5/22/19</td>
</tr>
<tr>
<td>Assistant City Manager/David P. Dollahon</td>
<td></td>
<td>541-2271</td>
<td>5/28/19</td>
</tr>
<tr>
<td>City Attorney</td>
<td></td>
<td>541-2128</td>
<td>5/23/19</td>
</tr>
<tr>
<td>City Clerk</td>
<td></td>
<td>541-2115</td>
<td>5/24/19</td>
</tr>
</tbody>
</table>

Rev. 4/2019
Legal Advertising Affidavit

Angel McKellar, who, being duly sworn as the Advertising Assistant
of the Las Cruces BULLETIN, a weekly
newspaper of general distribution published in the City of
Las Cruces, County of Doña Ana, State of New Mexico,
disposes and states that the legal advertising for

CITY OF LAS CRUCES CITY ATTORNEY

In the matter of:
NOTICE OF INTENT TO ADOPT (1) Council Bill No. 19-026;
Ordinance No. 2891: An Ordinance Repealing and Replacing
Section 38-32 B 2 and Section 38-33A of the Las Cruces Municipal
Code to Conditionally Allow for Assisted Living or Retirement
Facilities and Nursing Homes Within C-2 and C-3 Zoning Districts.
Submitted by the City of Las Cruces (19CA0500020). (2) Council
Bill No. 19-027; Ordinance No. 2892: An Ordinance to Repeal and
Replace the Existing Las Cruces Municipal Code (LCMC) 1997, as
Amended, Chapter 2, Article VI, Public Records with a New Version
Adopting State Law.

In accordance with the laws of the State of New Mexico,
the attached was published in its entirety 1
time(s) in the Las Cruces BULLETIN, the first
publication date being 06/07/2019 and subsequent
publications being: , , ,

[Signature]
Angel McKellar

Sworn to and subscribed
before me this day 06/07/2019
in the
CITY OF LAS CRUCES
COUNTY OF DOÑA ANA
STATE OF NEW MEXICO

[Signature]
Notary Public

Advertising Costs: $55.31

[Notary Seal]
LEGAL NOTICES

WALTSTON ABRAMS has been appointed Personal Representative of the estate of the deceased person proving against said estate are required to present their claims within four (4) months after the date of the first publication of this Notice or the claims will become barred. Claims must be presented either to the undersigned or to Prendergast and Prendergast. Prendergast, 9170 Las Cruces, New Mexico 88005.

MELISSA J. RUIZ,PC
114-250 Yucca Street, Suite 100
Las Cruces, NM 88011

An Attorney for Personal Representative:

Date: 05/24, 05/31, 06/07, 2019

STATE OF NEW MEXICO COUNTY OF DONA ANA THIRD JUDICIAL DISTRICT COURT

IM-2018-1460

NOTICE TO CREDITOR

IN THE MATTER OF

FOR KENNIS GUARDIANSHIP OF

CHRISTIAN HARVEY,
a minor child

NOTICE OF PENDENCY OF ACTION

TO TARA HARVEY AND WESLEY SANCHEZ,

You are hereby notified that the administration of the estates of

the deceased persons listed above has been

begun by an Administrator and you are hereby notified that the Petition will be

granted.

Kayla Anne Marie Hahn
1847 Defiance Rd.
Las Cruces, NM 88001
Witnesse: the Honorable Gary C. Baca, District Judge of the Third Judicial District Court of the State of New Mexico and the Seal of the District Court of Dona Ana County, this 25th day of July, 2019.

CLERK OF THE DISTRICT COURT

By: Laura N. Alba

Date: 06/01, 06/07, 06/14, 2019.

NOTICE TO CREDITOR

STATE OF NEW MEXICO COUNTY OF DONA ANA THIRD JUDICIAL DISTRICT COURT

Case No. 1:10-CV-2019-00600
Judge Marcos Herrera

THE CASTAS AT MORRIS

OWNERSHIPS ASSOCIATION, INC.

Plaintiff

v.

LIS TORRES,

Defendant.

AN INDebeANCE NOTICE OF SALE

By virtue of an Amended Default Judgment issued out of the District Court of Dona Ana County, New Mexico on May 20, 2019 in the above noted cause it was determined that Plaintiff has a judgment against the Defendant LIS TORRES in the amount of $14,287.83 together with interest from and after April 28, 2016 in the sum of $5,286.59 per annum, and by judgment I am among other things commanded to sell all the funds described in said Judgment and which are due to be sold in the foreclose sale and more particularly described in the judgment of said cause and hereinafter described.

Notice is hereby given that on the 16th day of July, 2019 at the hour of 11:00am in the front of the Dona Ana County Judicial Complex located at 201 W. Picacho Avenue, Las Cruces, NM 88001, it will be sold in accordance with said Judgment and the following described real estate:

Lot 2, Block E, Camino Reformed,

Lot 2, Camino Reformed, The

State of Dona Ana County, New Mexico

CASE OF LAS CRUCES,

A new municipal corporation, Plaintiff,

v.

THE ESTATE OF DOLORES BERRIERA AND JOSÉ FA. BERRIERA,

Deceased,

THE ESTATE OF JOSEFA G. BERRIERA,

Deceased,

THEUNKNOWN HEIRS, DEVEEDEES AND

NOTICE TO DEBTORS/GUARDIANS AD LITEM

The Friday, June 7, 2019

Las Cruces Bulletin - your legal publication for Las Cruces and Doña Ana County, New Mexico

LEGAL NOTICES

GIVEN that the undersigned has been appointed Personal Representative of this estate. All persons having claims against this estate are required to present their claims within four months after the date of this publication of this Notice or the claims will become barred. Claims must be presented either to the undersigned or to Prendergast and Prendergast, Prendergast, 9170 Las Cruces, New Mexico 88005.

STATE OF NEW MEXICO COUNTY OF DONA ANA THIRD JUDICIAL DISTRICT COURT

Judge James M. Taylor

IN THE MATTER OF

THE ESTATE OF

DONA NAEON, Decedent.

NOTICE TO CREDITOR

NOTICE TO CREDITOR

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Dated May 17, 2019

Alphonso Hernandez
Alphonso Hernandez
Personal Representative of the Estate of
Dona Naeon, Decedent.

PREPARED & SUBMITTED BY

JOSEPH M. HOLMES, P.A.
PO Box 766
Las Cruces, NM 88004-0766
(575) 534-6853
oholmes@al.com

Joel Joseph M. Holmes
Attorney for the Estate

Date: 05/24, 05/31, 06/07, 2019

STATE OF NEW MEXICO COUNTY OF DONA ANA THIRD JUDICIAL DISTRICT COURT

2019-PD-0792
JUDICIAL MARTIN

IN THE MATTER OF

THE ESTATE OF

JACK A. SOULAS,

Decedent.

NOTICE TO CREDITOR

NOTICE TO CREDITOR

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STATE OF NEW MEXICO COUNTY OF DONA ANA THIRD JUDICIAL DISTRICT COURT

No. D-2017-PD-2015-00680
Judge James M. Taylor

IN THE MATTER OF

THE ESTATE OF

EMILY HERNANDEZ, Decedent.

NOTICE TO CREDITOR

NOTICE TO CREDITOR

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Dated May 14, 2019

Joan Joseph M. Holmes
Attorney for the Estate

Date: 05/24, 05/31, 06/07, 2019

STATE OF NEW MEXICO COUNTY OF DONA ANA THIRD JUDICIAL DISTRICT COURT

2019-PD-0792
JUDICIAL MARTIN

IN THE MATTER OF

THE ESTATE OF

JACK A. SOULAS,

Decedent.

NOTICE TO CREDITOR

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STATE OF NEW MEXICO COUNTY OF DONA ANA THIRD JUDICIAL DISTRICT COURT

No. D-2017-PD-2015-00680
Judge James M. Taylor

IN THE MATTER OF

THE ESTATE OF

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NOTICE TO CREDITOR

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AFFIDAVIT OF PUBLICATION

Ad No.
0001287261

Esther
CITY OF LAS CRUCES
PO BOX 20000
PURCHASING
LAS CRUCES NM 88004

I, a legal clerk of the Las Cruces Sun-News, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

06/02/19

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

Legal Clerk
STATE OF WISCONSIN ss.
County of Brown
Subscribed and sworn before me this 3rd of June 2019.

NOTARY PUBLIC in and for
Brown County, Wisconsin

My Commission Expires

NOTICE OF INTENT TO ADOPT

The City Council of The City of Las Cruces, New Mexico, Hereby Gives Notice of Its Intent to Adopt the Following Ordinance(s) at a Regular City Council Meeting to be Held on June 17, 2019:
(1) Council Bill No. 19-026; Ordinance No. 2891: An Ordinance Repealing and Replacing Section 38-32 B 2 and Section 38-33A of the Las Cruces Municipal Code to Conditionally Allow for Assisted Living or Retirement Facilities and Nursing Homes Within C-2 and C-3 Zoning Districts. Submitted by the City of Las Cruces (19CA0500020).
Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and Seal of the City of Las Cruces on this the 29th day of May, 2019.
Linda Lewis, CMC
City Clerk
Pub#1287261
Run: June 2, 2019

Ad#: 0001287261
P O : 2888
# of Affidavits : 0.00
NOTICE OF INTENT TO ADOPT

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(2) Council Bill No. 19-027;

Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and Seal of the City of Las Cruces on this the 29th day of May, 2019.

Linda Lewis, CMC
City Clerk

Date: 06/07, 2019