

# Las Cruces Record-Review

2015-2023



*City Councilors Kasandra Gandara, Becky Corran, Tessa Abeyta, Becki Graham, and Johana Bencomo march down Main Street during the first Southern New Mexico Pride Parade Oct 7.*

## Who Is Governing You? Oct 2023

Do your city councilors work for you, or for the social activist group CAFé’?

Three incumbent city councilors are now up for election. Councilors Tessa Abeyta and Johana Bencomo want to be re-elected to City Council, and City Councilor Kasandra Gandara wants to be elected mayor.

All three appeared at a candidate forum sponsored by CAFé’ October 3 and pledged to support CAFé’s agenda.

Bencomo is a former executive director of CAFé’.

CAFé emerged on the political scene when it campaigned to increase the minimum wage in Las Cruces. It achieved political success. On September 8, 2014, the Las Cruces city council adopted the CAFé’ ballot initiative as an ordinance, gradually raising the minimum wage.

On its web sites, NM CAFé’ says it is “a network of diverse religious institutions and community broad-based organizations across Southern New Mexico committed to building relational power with and for New Mexicans who have been directly impacted by **systems of injustice**.”

“We are working towards building an inclusive economy that centers on working people and families and treats those people with dignity. This means building power to shape public policy at the local, state, and national levels and teach our leaders how to be effective public people.”

A CAFé’ website described its Civic Engagement Program for the 2022 Midterm Elections this way:

- CAFé Accion (and our sister 501c3 [NM CAFé](#)) kicked off a robust civic engagement program over a period of 3 months in partnership with [Equis](#).
- CAFé Accion knocked on **177,833** doors, had **8,697** conversations, and phone banked **20,534** people in **Doña Ana County**.
- This resulted in **3,123** new Hispanic voters in Doña Ana County – who voted early.

The door knocking was done by 37 paid canvassers.

These numbers show that CAFé is a powerful force in our elections, as any candidate whose campaign has door-knocked or made phone calls knows.

At its candidate forum Oct. 3, which it called an “Accountability Session,” a moderator asked each city council candidate and each mayor candidate five predetermined questions, to which the candidates were to respond yes or no. Each candidate was allowed to elaborate on his or her answer to only one question. Incumbent city councilors Abeyta, Bencomo, and Gandara answered yes to every question.

Among the questions were:

- Do you plan on affirming the city’s immigrant-friendly status?
- Are you open to increasing funding and social services for vulnerable populations in our community?

- Do you plan to reduce homelessness in our community?
- Do you support funding to address mental health programs?
- Will you allocate more resources to strategic plans for surges in immigration?
- Do you have a strategy to improve homelessness, housing, and poverty in our community?

School board candidates were similarly questioned, which is not covered here.

It is unlikely that each citizen and taxpayer in Las Cruces would answer yes to every one of those questions put to council and mayor candidates. So, in the absence of an election machine that is equal to that of CAFÉ's, many citizens may be left unrepresented by the elected city councilors and mayor unless they turn out to vote in much greater numbers than in the past.



*Two photos of Mayor Ken Miyagishima and city councilors taken at the same photo session. From left are Councilors Becki Graham, Becky Corran, Tessa Abeyta, Yvonne Flores, Johana Bencomo, and Kasandra Gandara.*

### **Kasandra A. Gandara Elected to City Council, Nov 2015**

As a social worker, Gandara worked for the State Health, Children, Youth, and Families Department (CYFD). She

was elected to represent District 1 in 2015 and won reelection in 2019. --*LC Sun-News, 4/17/23*

### **Gandara Declares Candidacy for Mayor, April 2023**

Kasandra Gandara announced she's running to succeed Mayor Ken Miyagishima. Gandara's official campaign to try to become Las Cruces' next Mayor began April 14, 2023 with postings across social media and an article in the *Las Cruces Bulletin*. Gandara, 55, holds two titles in city government – Councilor of District 1 and Mayor Pro Tem – *LC Sun-News, 4/17/23*

### **Crime Against Business is Rampant, Sept 2023**

The Coalition of Conservatives in Action (CCIA) has recorded more than 150 instances of crime against small businesses in Las Cruces during 2023. The count includes repeats --some businesses 3-5 times and more. Many of the affected businesses listed have been brought to light by verified reports from CCIA members. "The list was created so the (city) council and citizens remember these are real victims, not just police reports," said CCIA Chairman Juan Garcia. CCIA posts photos of crime damage in its newsletters under the heading, "Hall of Shame." "Las Cruces small business is under siege," said Garcia, who along with other CCIA members and victims themselves have been appearing to complain at virtually every City Council meeting for months. Mayor Ken Miyagishima blamed release of criminals by the courts, and said the city pays for security patrols downtown at night and compensates some crime victims. -- <https://coalitionofconservativesinaction.org> 9/23

### **Crime Rate Skyrockets, May 2021**

...On May 24 (2021), Police Department officials told the City Council that violent crimes per year had more than doubled from 251 in 2016 to 546 in 2020. . . . Two candidates for city council said in a news release: "In the first 4 months of 2021, the Police Department reported violent crimes had increased 43 percent over the first 4 months of 2020, from 131 to 187." --*Pinon Post, 7/7/21*

### **Beheading in Apodaca Park, June 2021**

A 25-year-old man, who had been arrested 4 years earlier for a separate murder charge, allegedly beheaded an acquaintance and then "played soccer" with the severed head. Joel Arciniega-Saenz was charged with first-degree murder in connection to the death of 51-

year-old James Garcia at Apodaca Park in Las Cruces, KTSM reported, citing court documents. Garcia's body was found in the roadway on Madrid Avenue while his head was approximately 10 yards away. Arciniega-Saenz had been arrested in 2017 for the murder of 21-year-old Benjamin Montoya, a report by KDBC said. The charges, however, were dismissed after the key witness in the case was found with a gun that had the same caliber of bullets used in killing Montoya. Arciniega-Saenz was arrested a month before the beheading for vandalizing a coffee house in Las Cruces but he was released. -- *International Business Times*, 6/24/21

#### **City Councilor Says Police Budget Too High, April 2021**

Mayor Candidate Gandara's colleague on City Council, Johana Bencomo, at an April 26, 2021 city council meeting, pointed to a bar graph entitled WHERE OUR MONEY GOES, and noted that the bar for the cost of the police department was the highest. "And you know, for the police department to have such a disproportionate chunk of the budget, to me feels like we need to do some serious reflection on the creation of this budget. . . ." -- *City Council meeting video and Pinon Post* 7/7/21

#### **Candidates Say City is Defunding Police, July 2021**

Two candidates for City Council said on May 24, 2021 that the Police Department reported to City Council that the police force of 202 had 52 vacancies. The police chief said this caused a burden of excessive overtime on the force. The candidates said the city cut budgeted police department employees – sworn and not sworn -- by 11 from 329 in the 2018 budget to 318 in the FY 2020 and 2021 adopted budgets, while the overall city payroll went up 89, from 1,583 to 1,672. -- *Budget documents and Pinon Post*, 7/7/21

#### **State Auditor Releases Investigative Report on Las Cruces City Government, Dec. 2020**

"Violations of laws, regulations, and City policy were rampant within City Management" – *787-page McHard Report of Investigation, Page 52, dated 5/28/20 by the State Auditor but not released to the public until December 29, 2020.*

#### **Probable Cause Exists To Believe That Criminal Violations Have Occurred, Dec 2020**

". . . there is probable cause to believe that criminal violations have occurred. . . involving former City employees Philip San Filippo (the director of the Convention and Visitors Bureau and later promoted to director of economic development) and (City Manager) Stuart Ed. . . . -- *McHard Investigative Audit Report, Page 47, 5/28/20.*

#### **City Clueless Regarding Costs for Country Music Festival, 2015-2019**

"The City thought they were paying \$22,000 for talent per year . . ." said the McHard investigative report. "In actuality, over \$250,000 was paid for the talent in fiscal year 2019, and the artist payments were no less than \$125,000 in each of the years we examined..." The report concluded, "In all \$797,300 was spent for artists for the Country Music Festival for fiscal years 2015-2019. -- *McHard Investigative Audit Report, Page 18, 5/28/20.*

#### **Former City Manager Gets \$117,745 Separation Pay; Signs Nondisclosure Agreement With Mayor, 2019**

According to a separation agreement signed by City Manager Stuart Ed [who was given a new contract and a raise just last February] and Mayor Ken Miyagishima, obtained through a public records request, Ed will be paid a lump sum of \$117,745.88 within 30 days. The agreement states that Ed voluntarily resigned his position and that the city and Ed will refrain from making "any disparaging or critical remarks about the other party." Ed's contract was renewed in February through June 28, 2020 and included an increase in his base salary to \$181,535. The city manager reports directly to the city council. -- *LC Sun-News, 4/23/2019*

#### **City Pays New City Manager More than the Governor makes, 2020**

Ifo Pili, the new Las Cruces city manager, gets a substantially higher salary than his predecessor — the highest in city history. The contract pays a base salary of \$216,000 per year before benefits — a 19 percent jump in what the last permanent city manager, Stuart Ed, was paid. The city had budgeted \$169,000 for the city manager position, including benefits. The contract brings the total up to \$279,000, which includes the \$216,000 salary and other benefits such as a \$500 a month vehicle

allowance, health, dental, vision and life insurance, a retirement plan and relocation assistance of up to \$15,000. (*LC Sun-News* 8/17/2020) Under a proposal in the legislature, the salary of the governor would increase from \$110,000 to nearly \$170,000. That's higher than the average pay for governors across the nation of \$148,939, according to 2022 data from the nonprofit U.S. Council of Governors. -- *Santa Fe New Mexican*, 2/26/23

### **City of Las Cruces Settles Whistleblower Lawsuits, 2020**

The City settled three whistleblower lawsuits out of court, while one suit remained pending. The city paid \$1.4 million to settle. The three employees who filed the lawsuits claimed that they were fired in retaliation for reporting waste of public funds, procurement violations, and other wrongdoing at City Hall. They also claimed that they were punished for refusing to participate in illegal or improper activities. The lawsuits were filed against the city by former purchasing manager Debra Smith, city auditor Audrey Evins, and accounting manager Maria Villa in 2019. -- *LC Sun-News* 1/30/2020

### **Staffing Issues Plague Las Cruces' City Attorney's Office After Top Lawyer Let Go, 2022-23**

What happened to the city attorney?

For the legal department, the staffing shortage starts at the top. Jennifer Vega-Brown, who led the office since April 2017, was terminated in November 2022, according to records obtained by the *Sun-News*. It's unclear why, however. The records only indicate that the city ended Vega-Brown's tenure with an "involuntary termination" on November 16, 2022.

None of the documents obtained hinted at the cause of the termination. There are no public lawsuits that shed light on the reason either. Vega-Brown could not be reached for comment.

The City of Las Cruces Council approved a \$700,000 contract to a law firm to supplement the services of the City Attorney's Office. -- *LC Sun-News* 6/14/23

### **Las Cruces City Council Votes to Keep Park Impact Fees Where They've Been Since 2012; Passes Up Millions in Revenue (2019)**

A consultant said in reports on May 1, 2018 and February 21, 2019 that the cost to the city of new development

over 6 years to fill new parks and recreation needs would amount to \$28.7 million, and recommended the parks and recreation "fair share" impact fee on new homes be set at \$7,000 per home. But the city had the consultant rewrite the reports to put the cost of new development at only \$10 million and recommend an impact fee of only \$3,100. Then, the council voted in July 2019 to keep the impact fee unchanged at only \$2,600. The \$7,000 fee would amount to 2.8 percent of the cost of a \$250,000 house. Based on the consultant's original recommendation, loss in revenue by not increasing the impact fee for 2020 alone on 739 new houses built is \$3.2 million. For 2021's 1,000 new homes, the loss is \$4.4 million. Such losses continue year after year for 5 years until the impact fee is due to be updated. Councilor Yvonne Flores, who said during the meeting that she did not understand impact fees and asked for a work session on the subject, voted anyway with her colleagues to keep the fee the same. -- *LC Sun-News*, 7/3/19, and analysis by the former chairman of the Capital Improvement Advisory Committee, which recommends impact fees.

### **City Council Affirms Immigrant-Friendly Policies, December 2017**

Las Cruces city councilors unanimously voted to affirm the city's policy prohibiting police from questioning people about their immigration status unless doing so is necessary in a criminal investigation. Johana Bencomo of NM café' spoke at a public event in support of the resolution. A resolution, presented by Police Chief Jaime Montoya and City Attorney Jennifer Vega-Brown, affirmed the city's current Human Rights ordinance as well as several existing policies of the police department which prohibit law enforcement officers from asking people to show proof of citizenship when responding to a domestic dispute, a traffic violation, or other types of interactions with the public. "We don't enforce the immigration status warrants, we just do the criminal warrants, the municipal, state and federal stuff," Montoya said. Montoya also said that Las Cruces police do not cooperate with Border Patrol officers when they ask for assistance in immigration operations. -- *New Mexico In-Depth*, 12/19/17

### **Magazine Article Calls Las Cruces Plastic Bag Ban "Preposterous," Aug, 2023**

The *Historic Mesilla Valley* magazine, published by Democrat City Council candidate Daniel Gordon Buck,

printed an article giving many reasons why the bag ban was an environmental blunder. The last paragraph of the article says, “The shocking facts, please. In New Mexico currently, only Santa Fe and Las Cruces still adhere to this preposterous ban!”

The city ordinance enacting the bag ban was adopted unanimously by the Las Cruces City Council in August 2021.

The city contacted numerous affected businesses, from big box chains to locally owned stores, to remind them of the upcoming ban. The city also engaged in a social media advertising campaign to inform the public. -- *The Historic Mesilla Valley magazine*, 8/23

### **City Council Approves Rate Hike as It Transitions from Natural Gas, April 2022**

The Las Cruces City Council approved a natural gas utility rate hike, increasing rates on small commercial customers substantially over the next 3 years.

The council also agreed to direct the Las Cruces Utilities Board to immediately implement a 15-cent-per-dekatherm “decarbonization rider” on all customers. The 15-cent rider, a surcharge on gas usage imposed evenly across ratepaying classes, would be used to “evaluate and implement energy efficiency measures in homes.” The city committed to a transition to renewable energy in its 2020 Climate Action Plan and in a separate resolution passed by the council last year, which calls for a plan to transition off natural gas. —*LC Sun-News* 4/19/22

### **City Council Adopted Ranked-Choice Voting, June 2018**

In the first election under the system, Mayor Miyagishima won a new 4-year term although only 37 percent of the people voted for him as their first choice. Since no candidate met the 50-percent threshold, the candidate with the fewest votes was eliminated and some of his votes were redistributed. There were 9 iterations of this as one by one nine candidates were eliminated before Miyagishima went over 50 percent and won. — *LC Sun-News* 11/5/19 and analysis

### **Las Cruces Rolls Out City's First Publicly Funded Basic Income Program, Sept 2023**

Las Cruces’s first publicly funded guaranteed basic income (GBI) program is in the works. The city-approved pilot project will allocate federal funds for payments to qualifying low-income individuals, with the goal of evaluating recipient outcomes. With \$1.7 million of American Rescue Plan Act funding, nonprofits will provide \$500 monthly payments over 18 months to 150 eligible Las Cruces families. City Councilor Johana Bencomo said the program is meant to redefine the way the city looks at social safety nets. While all six city councilors voted in favor of using federal funds for the program [City Councilor Yvonne Flores said Sept. 18, 2023 that she actually opposes GBI because it failed in Fresno, CA], Mayor Ken Miyagishima voted against it, saying the program’s federal funds will eventually run out. “I just don’t get it. Some of my colleagues really need to learn a lesson in finance and economics here because they have no idea where [the] money comes from. I’m sorry.” — *NM State KRWG Public Radio*, 9/15/2023

### **Council Moves to Change Squaw Mountain Drive Name Despite Resident Opposition 9/2021**

The idea to change the name of Squaw Mountain Drive was proposed by District 4 City Councilor Johana Bencomo. “The reason I brought it up was because I was so shocked that we had this name in one of our streets,” Bencomo told the *Sun-News*. She considers squaw a slur. The matter seems to have become dormant since a majority of the residents of the one-block street, including some with native American blood, said they do not want the name changed. Meanwhile, the owners of the Washington Redskins changed the name in the face of social activist protests, but native Americans said in two Washington Post polls they did not object to the name. In August 2023, the Native American Guardians Association urged owners to restore the team’s original name. *LC Sun-News* 9/24/21 and *All-Sides* 8/11/23

### **City Council Approves \$4.1 Million Contract for Electric Buses from Chinese Company, Sept 2021**

City councilors voted 6-0 to approve a contract with BYD Coach & Bus, a unit of Chinese parent company BYD Co. Ltd., to buy five electric buses to add to the city’s RoadRUNNER Transit fleet, with the option to purchase up to seven more at a later date during the 5-year

contract term, which ends Dec. 30, 2026. Transit Administrator Mike Bartholomew said BYD's contract with the city won't be affected by an amendment to the National Defense Authorization Act, which in 2022 will prohibit transit agencies from spending federal dollars to buy electric buses from Chinese-owned or Chinese-controlled companies. -- *LC Sun-News 9/22/21*

**Affordable Housing Spending Planned, Sept 2023**

City staff may bring an affordable housing bond to the council for issuance "once our economy is a little less volatile" in late 2023 or early 2024. The city obtained voter approval of a \$6 million bond for affordable housing in the general election of November 2022. The \$6 million could be leveraged to provide \$36 million for 500 affordable housing units. -- *LC Sun-News 2/22/23*


**Council Amends COVID Emergency Powers 3/2022**

City Council unanimously voted to amend the ordinance that grants Mayor Ken Miyagishima emergency powers to more closely conform with how the ordinance has been carried out. Miyagishima was given previously nonexistent emergency powers to respond to the COVID-19 pandemic in March 2020. Throughout the past two years, Miyagishima has used his emergency powers in a number of ways, including placing stricter limits on some local businesses than state requirements, imposing fines on local businesses for masking violations, and requiring vaccine ID card checks at city council meetings. -- *LC Sun-News 3/8/22*

**City Auditor Says Process Developed for Distributing Millions of Taxpayer Dollars Was Faulty.**


The process used to determine which organizations were eligible to receive millions of dollars from the more than \$24 million the city received from the federal American Rescue Plan Act (ARPA) initially was not properly managed, according to a report by the City Auditor.

The auditor found that the process used to determine the eligibility of grant recipients "was not sufficiently designed or documented to support clear, consistent, and transparent eligibility determinations."



**MEMORANDUM**

**To:** Ifo Pili, City Manager  
**From:** Viola M. Perea, City Auditor, CIA, CFE  
**Date:** January 21, 2022  
**Subject:** Compliance Review of ARPA Funding Eligibility Process

**Initials:**   
**File #:** SR2022-04

The City of Las Cruces Internal Audit Office was asked to review the eligibility process followed for applications submitted for the American Rescue Plan Act (ARPA) funding awarded to the City in 2021. Internal Audit reviewed the published requirements in the RFP and criteria used in the eligibility determination process.

**We found that the eligibility process followed was not sufficiently designed or documented to support clear, consistent, and transparent eligibility determinations.** As such, consistency and appropriateness of the eligibility review process followed could not be confirmed.

- The RFP Selection and Evaluation Process did not include documented direction for determining eligibility other than to say "Non-scoring staff will review applications for eligibility determination and full submittal requirements."
- Specific eligibility criteria and requirements that were to be evaluated for eligibility determinations were not documented.
- Eligibility reviewers did not record the existence, non-existence, applicability, or waiver of eligibility criteria and requirements.
- **Applicable sections of the Procurement Code related to the RFP Process were not followed.**

The auditor said, "As such, consistency and appropriateness of the eligibility review process followed could not be confirmed."

According to the auditor, 18 of 21 applications for funds lacked at least one of the requirements listed in the Request for Proposals.

The City Council delayed the award process until it was revised. Unsuccessful applicants for funds had complained that the process was not fair.

The auditor said, "The eligibility criteria should be documented using a matrix, checklist, or evaluation sheet that lists all applicable criteria, requirements, calculations, parameters, etc. that must be reviewed, measured, evaluated, considered, and/or confirmed to determine eligibility for each application received." -- *City internal audit reports from 1/21/2022 and 9/2/2022*

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