



December 20, 2024

Mayor Eric Enriquez ([eenriquez@lascruces.gov](mailto:eenriquez@lascruces.gov))  
Mayor Pro Tem, Johana Bencomo ([jbencomo@lascruces.gov](mailto:jbencomo@lascruces.gov))  
Brad Douglas, City Attorney ([cityattorney@lascruces.gov](mailto:cityattorney@lascruces.gov))  
City of Las Cruces  
City Hall  
700 N. Main St.  
Las Cruces, NM 88004

**Re:** **Complaint No.:** NMDOJ-ECS-20240329-2493  
**Complaint Date:** March 29, 2024  
**Filers:** Algernon D’Ammassa  
**Respondent:** City of Las Cruces City Council  
**Type:** Open Meetings Act Complaint

Dear Mayor Enriquez and Mayor Pro Tem Bencomo:

The Government Counsel and Accountability Division (the “GCA”) of the New Mexico Department of Justice (the “NMDOJ”) recently completed a review of a complaint received regarding your public body. The allegations in the complaint raised concerns with your public body’s compliance with New Mexico’s government transparency laws – specifically, the Open Meetings Act (“OMA”), NMSA 1978, Sections 10-15-1 to –4. Public bodies across our state, at every level of government, are required to comply with both the written requirements and spirit and intent behind our sunshine laws, which provide the public a fundamental right to obtain information regarding the affairs and business of our representative government.

The Attorney General has statutory authority to enforce this law, and we rely on concerns brought forward by the public to help identify and resolve issues of noncompliance by means of informal resolution. Through this process, our agency clarifies explicit requirements as well as best practices and directs such action needed to cure violations and help ensure future compliance with the law. Serious issues of noncompliance, or repeated noncompliance, may result in further action from our agency.

The allegations raised in the complaint regard the City of Las Cruces City Council’s (“City Council”) process for recruiting and hiring a new city manager. For the reasons set forth in this letter, the GCA has concluded that that process lacked compliance with the OMA. The *only* open meeting at which the City Council ever discussed the selection of the new city manager was its April 1, 2024, meeting. At that meeting, the City Council had already selected its candidate and negotiated an employment agreement. The City Council’s opaque process deprived the public of

any opportunity to meaningfully participate in the selection of a new city manager. As a consequence of these violations, the city manager selection is invalid. As discussed further below, the GCA finds serious violations that require your immediate attention and correction.

## **I. MATERIALS REVIEWED**

Our evaluation of the Complaint included a review of the following documents:

- a. Mr. D’Ammassa’s complaint, which included an email correspondence between Mandy Guss, Communications Director for the City of Las Cruces, and Mr. D’Ammassa, between March 21, 2024, and March 25, 2024. The Complaint is attached as Exhibit A.
- b. The meeting agendas for the two closed City Council meetings on March 18, 2024, and March 20, 2024, and the regular Council meeting on April 1, 2024.
- c. The video recording of City Council’s April 1, 2024, regular meeting. Las Cruces City Council, *Las Cruces Council Meeting - April 1, 2024*, YouTube (Apr. 1, 2024), [https://www.youtube.com/live/2ulSz\\_tUPPQ?si=P1NGIYsrVgct03sM](https://www.youtube.com/live/2ulSz_tUPPQ?si=P1NGIYsrVgct03sM). (hereinafter “Videorecording”).
- d. Copies of press releases from the City of Las Cruces dated February 28, 2024, March 19, 2024, and March 21, 2024. The press releases are attached as Exhibit B.
- e. Resolution 24-100, City Council Action and Executive Summary, which is attached as Exhibit C.
- f. Article by Mr. D’Ammassa in the Las Cruces Bulletin: “City denies violating open meetings law,” dated March 28, 2024, a copy of which is attached as Exhibit D.
- g. Article by Mr. D’Ammassa in the Las Cruces Bulletin: “Las Cruces councilors approve contract for new city manager,” dated April 1, 2024, a copy of which is attached as Exhibit E.
- h. The City Council’s September 6, 2024, written partial response to the GCA’s First Letter of Inquiry sent on August 30, 2024, a copy of which is attached as Exhibit F.
- i. The City Council’s September 10, 2024, written supplemental response to the GCA’s First Letter of Inquiry sent on August 30, 2024, a copy of which is attached as Exhibit G.
- j. The City Council’s production of text messages from Ikani Taumoepeau to City Council Members and Mayor Pro Tem Bencomo. Copies of the text messages are attached as Exhibit H.
- k. The City Council’s October 29, 2024, written responses to the GCA’s Second Letter of Inquiry sent on October 22, 2024, a copy of which is attached as Exhibit I.
- l. The City Council’s Closed Meeting Statement for its March 18, 2024, closed meeting that was produced on October 22, 2024, a copy of which is attached as Exhibit J.

## II. TIMELINE OF CITY COUNCIL'S ACTIONS ON HIRING NEW CITY MANAGER

The GCA has developed the following relevant timeline based on the materials we reviewed:

**February 28, 2024:** The City of Las Cruces issued a press release stating that former City Manager Ifo Pili was resigning, and that the City of Las Cruces was accepting “internal” applications beginning that day.

**March 18, 2024:** The City Council met in closed session, invoking the OMA’s “limited personnel matters” exception. The March 18, 2024, closed session is not reported out until April 1, 2024.

**March 19, 2024:** The City of Las Cruces issued a press release stating that the City Council selected three finalists for city manager at its March 18, 2024, closed session. The press release also stated that the City Council decided to select the new city manager from applicants already employed by the City of Las Cruces.

**March 20, 2024:** The City Council met in closed session, invoking the OMA’s “limited personnel matters” exception. The March 20, 2024, closed session is not reported out until April 1, 2024, at which Mayor Enriquez stated that the meeting lasted from 10:49 a.m. to 5:18 p.m. and included in attendance the three individuals who were presumably the finalists: David Sedillos, Sonia Delgado, and Ikani Taumoepeau.

After the closed session, according to text messages produced by the City Council, Ikani Taumoepeau texted Councilor McClure and Councilor Corran thanking them for their support and opportunity to serve the council.

**March 21, 2024:** The City of Las Cruces issued a press release stating that a “tentative offer” has been made to Ikani Taumoepeau for city manager and is to start on April 1, 2024. The press release stated that the “proposed contract will be voted on by City Council at its April 1, 2024, regular meeting.”

**March 25, 2024:** The City Council held a “work session” meeting, at which there was a quorum of the public body present and public business was discussed.

**April 1, 2024:** At a regular City Council meeting, the City Council votes on Resolution No. 24-100, which approved the employment agreement for Ikani Taumoepeau as city manager. Additionally, at the April 1, 2024, regular meeting, Mayor Enriquez reports out the two closed sessions the City Council held on March 18, 2024, and March 20, 2024.

## III. OMA VIOLATIONS

After our review of the evidence provided, the GCA finds that the City Council’s decision process to limit the city manager to internal candidates was reached through a presumed rolling quorum, rather than in an open meeting. Specifically, the City Council engaged in closed and

informal, individual discussions between the outgoing city manager, Mr. Pili, Mayor Enriquez, and Councilors, instead through the open and transparent process required by OMA. For the reasons stated below, the City Council's process to select a new city manager raises serious concerns about the lack of adherence to legal requirements designed to ensure that public body's decisions are made in the public's view.

**A. The City Council Failed to Decide the Scope of its City Manager Search in an Open Meeting and Appears to Have Engaged in a Rolling Quorum.**

The City Council contends that its decision to limit its search scope to internal candidates was formally made at its March 18, 2024, closed meeting pursuant to the "limited personnel matters" exception. *See* Exhibit G; Exhibit I.

The exhibits and press release issued February 28, 2024, clearly show that the City Council held discussions among Mr. Pili, Mayor Enriquez, and the Councilors, that led to a private consensus to accept internal applications prior to March 18, 2024. In fact, there is no evidence to suggest that final action to only accept internal applications for city manager was made in an open meeting, only a decision that merely ratified an outcome that had already been determined outside of the public's view. As a result, the City Council did not comply with the OMA to limit its scope of city manager candidates by conducting the discussion of public business outside of a public meeting and initiating a "rolling quorum."

Pursuant to NMSA 1978, Section 10-15-1(B), *any* discussion of public business within the delegated authority of a public body *must* take place in an open meeting. This requirement is typically met when a quorum of a public body's members convene discuss public business or take final action in a properly noticed, public meeting. However, a quorum can exist for purposes of OMA even when the members are not physically present together at the same time and place. For example, if three members of a five-member board discuss public business in a series of telephone or email conversations, the discussion is a meeting of a quorum. This is referred to as a "rolling" quorum. The GCA highly advises public bodies to be cautious of engaging in a "rolling quorum", as it constitutes a meeting of a quorum of the public body's members outside of a properly noticed, public meeting, which is a violation of the OMA.

NMSA 1978, Section 10-15-1(B) requires that all meetings of a quorum of members of the City held for the purpose of formulating public policy, including the development of personnel policy or taking any action within the authority of the City must be in a public meeting open to the public. Public policy and the discussion of public business can have many meanings, but it is clear that OMA contemplates personnel matters within the authority of a public body to be the discussion of public business, regardless of whether a policy is being decided.

The City Council's decision to proceed with internal candidates for city manager was first mentioned in the City Council's press release on February 28, 2024, which announced, "[i]nternal applications for the City Manager's position began being accepted Wednesday, February 28, 2024." *See* Exhibit B. In its written response to the GCA's first inquiry requesting an explanation of how the City Council decided to limit its search for city manager to internal candidates, the City Council answered: "[u]pon information and belief, former City Manager Ifo Pili consulted with the mayor and informed him that he believed that the organization had enough strong internal candidates to merit an in-house hiring process." *See* Exhibit G. Additionally, Mandy Guss,

Communications Director for the City of Las Cruces, was quoted by the Las Cruces Bulletin, stating, “[t]he city manager hiring process was suggested by Ifo [Pili, the outgoing city manager], who spoke individually with the city council members and got their OK to move forward.” *See* Exhibit D. When asked by Mr. D’Ammassa via email how many councilors Mr. Pili consulted with regarding the internal hire, Ms. Guss replied that she did not know how many councilors Mr. Pili had spoken with, but she claimed that “there was no rolling quorum as no policy was voted on.” *See* Exhibit A.

It is the GCA’s opinion that the City Council’s decision to focus exclusively on internal candidates is the result of a presumed rolling quorum. According to the City Council’s February 28, 2024, press release, internal applications had begun to be accepted the same day, indicating that the decision to accept internal applications had already been made by that date. This is supported by the City Council’s response to the GCA’s first inquiry, that the outgoing city manager, Mr. Pili, consulted with Mayor Enriquez, who both believed there were sufficient internal candidates for the city manager position. *See* Exhibit G. This consensus led to Mr. Pili reportedly consulting with councilors individually to secure their approval. *See* Exhibit D. According to Section 10-15-1(B), any discussions to decide the scope of the applications should have decided in an open meeting, as it is public business. The fact there is no evidence to support there was an open meeting to discuss the scope of applications, the GCA presumes that the City Council engaged in a rolling quorum to come to this decision.

The Council’s decision to limit the scope to internal candidates is public business, as the city manager is the only position appointed by the City Council. Las Cruces, N.M., Mun. Code, § 2-170 (1988). As such, pursuant to NMSA 1978, Section 10-15-1(B), *any* discussion regarding the new city manager’s selection process should have been discussed in a properly noticed, public meeting. While Ms. Guss claimed that the City Council did not engage in a rolling quorum because no policy was voted on, *see* Exhibit A, her explanation fails to recognize that any discussions regarding the selection process should have been discussed in an open meeting, regardless of any formal votes occurring.

**B. The City Council’s March 18, 2024, Closed Session to Narrow the Candidate Field to Three Internal Candidates Violated the OMA.**

On March 18, 2024, the City Council held a closed meeting to discuss limited personnel matters regarding the hiring of the city manager, which was closed pursuant to NMSA 1978, Section 10-15-1(H)(2). *See* Exhibit J. In the City Council’s March 19, 2024, press release, the City Council stated that at its March 18, 2024, closed meeting, the City Council selected three finalists after reviewing applications of nine internal candidates. *See* Exhibit B.

Any discussion of public business within the delegated authority of a public body must take place in an open meeting. § 10-15-1(B). However, the OMA outlines exceptional situations in which certain public business can be discussed in a closed session outside of an open public meeting, including “limited personnel matters.” § 10-15-1(H)(2). According to OMA, “limited personnel matters” specifically means “the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any *individual public employee*[.]” (emphasis added). *Id.*

After our review of the evidence provided, the GCA finds that the selection of the three finalists taken at the City Council's March 18, 2024, closed meeting did not comply with the OMA because the "limited personnel matters" provides only for discussion of matters under the exception and does "not exempt final actions on personnel from being taken at open public meetings." *Id.* The March 18, 2024, closed meeting intended to create a discussion of the city manager position but was instead created the decision on finalists and ultimately the final decision for the candidate for the city manager position. *See* Exhibit I. This is also evidenced during remarks the City Council's April 1, 2024, open meeting, which JC Borrego, City of Las Cruces Human Resources Assistant Director, stated that the closed meeting on March 18, 2024, involved a "discussion of the internal hiring process." Videorecording, *supra*, at 1:31:09. While the discussion of the City Council's internal hiring process could be in closed session, any selection of finalists or employee must have occurred in an open meeting, as these are matters of public business and affect the public. Accordingly, the GCA finds that the City Council improperly invoked the "limited personnel matters" exception and took improper action at its March 18, 2024, closed meeting.

**C. The City Council's March 20, 2024, Closed Session to Select Ikani Taumoepeau as City Manager Violated OMA.**

Out of the OMA violations discussed thus far, the most egregious is the City Council's decision on the city manager position during its closed session on March 20, 2024. The discussion on "limited personnel matters" can be discussed in a closed session outside of an open public meeting. § 10-15-1(H)(2). However, any final actions of "limited personnel matters" that were discussed in a closed session, must be taken in an open meeting. § 10-15-1(B).

In this case, there is substantial evidence that the City Council did not simply discuss the three finalists at its March 20, 2024, closed meeting; it took final action to select a candidate and take steps to move forward with that candidate outside of an open meeting. This evidence includes:

1. On March 20, 2024, Mr. Taumoepeau texted Councilor Corran (at 6:06 p.m.) and Councilor McClure (at 7:37 p.m.) thanking them for their support and opportunity to serve the council. *See* Exhibit H. The closed meeting adjourned at 5:18 p.m., according to the City Council's March 20, 2024, closed meeting statement. Videorecording, *supra*, at 1:28:19. The foregoing shows that a decision was made by the City Council to select Mr. Taumoepeau as city manager during the closed session.
2. On March 21, 2024, the City Council issued a press release with the headline "Las Cruces City Council Selects Ikani Taumoepeau to Serve as City Manager." The press release publicly announced that the City Council "has made a tentative offer" to Mr. Taumoepeau. Mayor Enriquez is quoted stating: "[t]he decision was not easy[.]" (emphasis added). *See* Exhibit B.
3. At the April 1, 2024, City Council meeting, it was clear that the employment agreement between the City Council and Mr. Taumoepeau (Resolution 24-100) had already been negotiated, as the contract was already drafted and ready for the City Council's approval. The City Council never publicly discussed the selection of Mr. Taumoepeau, only the employment agreement.

4. At the City Council’s April 1, 2024, meeting, J.C. Borrego, City of Las Cruces Human Resources Assistant Director, made a presentation that included a bullet point stating that “City Council’s candidate is Ikani Taumoepeau.” Videorecording, *supra*, at 1:31:41.

After the GCA’s review of the evidence, it is clear that during the March 20, 2024, closed session the City Council took an invalid final action to select Mr. Taumoepeau as the new city manager. The GCA’s concern is that the City Council never discussed or took any final action in an open meeting to select Mr. Taumoepeau as the final candidate for the city manager position, as required by Section 10-15-1(B). The City Council should have held an open meeting to take any final action related selecting its new city manager *before* publicly announcing an offer, either tentative or final, and certainly before any contract negotiations. The City Council’s lack of compliance deprived the public of information and the opportunity to participate in the affairs of government and the official acts of public officers and employees who represent them, in which they are entitled to. § 10-15-1(A).

As a result, the GCA finds that even though the City Council took a final action on April 1, 2024, to approve the employment agreement between the City and Mr. Taumoepeau, this was wholly insufficient to comply with the OMA. The GCA finds that ratifying a decision that stemmed from a selection process that was made in a closed session and shielded the public from any meaningful participation, seemingly does not cure these invalid final actions. It is also worth noting that there is no evidence to support that the City Council took final action to officially appoint Mr. Taumoepeau as city manager. Resolution 24-100 is approval of an *employment agreement*, not an appointment of a new city manager.

**D. The City Council Failed to Properly Make the Statement Required by NMSA 1978, Section 10-15-1(J) for its March 18, 2024, and March 20, 2024, Closed Meetings.**

At the City Council’s open meeting on April 1, 2024, Mayor Enriquez reported out the two closed sessions the City Council held on March 18, 2024, and March 20, 2024. According to NMSA 1978, Section 10-15-1(J), “[f]ollowing completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting.”

On March 18, 2024, the City Council voted to enter closed session. Afterwards, the City Council voted to re-enter open session. Since an open session immediately followed the closed session, the required statement should have been made when the City Council entered back into open session on March 18, 2024, according to Section 10-15-1(J).

For the March 20, 2024, closed session, it is the GCA’s opinion that the required statement should have been made at the City Council’s “work session” that was held on March 25, 2024. The City Council has stated that there was a quorum present at the March 25, 2024, work session. *See* Exhibit I. Under OMA, all discussions of a public business by a quorum of members of a public body shall be in open, public meetings. § 10-15-1(B). At these meetings, the City Council receives updates from the City Departments on a variety of topics and the City Council

views the meeting as informational, with no action items on the agenda. *Id.* Action items are not required in the OMA for public meetings. The OMA simply requires that public bodies are subject to the OMA when a quorum is present and there is a discussion of public policy or business. It is clear that the City Council’s “work sessions” includes the discussion of public business (e.g., receiving updates for city departments) when a quorum is present, making them subject to the OMA. As such, the March 20, 2024, closed meeting required statement should have been made at the March 25, 2025, “work session” as it was the following open meeting after the closed session on March 20, 2024.

While it is clear the City Council has violated the OMA by failing to make the required statements properly for its March 18, 2024, and March 20, 2024, meetings, the City Council has acknowledged the error was due to a misinterpretation of the requirement by staff and that it will be corrected in the future. *See* Exhibit I. The GCA appreciates the City Council’s decision to address the misrepresentation and future corrective action regarding required statements.

#### **IV. INVALID ACTIONS AND CURING UNDER THE OMA**

After the GCA’s review of the evidence and for the reasons mentioned in Section III, it is our office’s opinion that the City Council engaged in closed deliberations and invalid final actions prior to the single, open public meeting held to discuss the hiring of a new city manager on April 1, 2024. These actions deprived the public of any meaningful opportunity to participate in, or even witness the deliberations on, a question of significant public importance.

The OMA states that “[n]o resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of Section 10-15-1 NMSA 1978.” § 10-15-3(A). Given the series of OMA violations outlined above, the final action taken by the City Council on the approval of Mr. Taumoepeau’s selection and hiring is currently not valid.

There are two alternative corrective actions available to the City Council. First, the OMA violations can be cured by holding an OMA-compliant public meeting, summarizing all the discussions and comments made outside of a public meeting in violation of OMA, and ratifying the actions by a public and open vote of a majority of the City Council. *Id.*; *see also* NMSA 1978, § 10-15-3(B) (1997). “[P]rocedural defects in [compliance with the OMA] may be cured by taking prompt corrective action.” *N.M. State Inv. Council v. Weinstein*, 2016-NMCA-069, ¶ 86 (quoting *Kleinberg v. Bd. of Educ.*, 1988-NMCA-014, ¶ 30, 107 N.M. 38) (alteration in original). Under this first alternative, the Commission’s ratification would have to address all the procedural defects that began when the City Council decided, on or around February 28, 2024, to limit its search for a new city manager to internal candidates until April 1, 2024, when City Council approved the employment agreement with Mr. Taumoepeau. Such corrective action is not retroactive in approval. All approvals from the curing open meeting and votes and approvals of the City Council are effective on the day of that meeting.

Second, the OMA violation can be cured by treating the violative action as invalid and recommencing the process through an OMA-compliant public meeting. This second alternative would require starting over, which includes the consideration and adoption by a majority of the Commission of a new resolution in a properly noticed, open meeting, with all discussions, deliberations, and votes on the new resolution occurring in an open meeting.



We advise the City Council to immediately address the OMA violations associated with the selection of the city manager and cure them with one of these two alternatives. Given the gravity of the subject matter, we recommend that the City Council address this matter either at a special meeting or at the next available City Council meeting. The NMDOJ also requests that the City Council alert the NMDOJ of any corrective action it chooses to take, notices of meetings, and any decision stemming from these violations.

The NMDOJ has authority to enforce the OMA through injunction, mandamus, or other appropriate order. We therefore reserve the right to enforce the provisions of the OMA through the commencement of a civil action, but we trust that our findings in this matter are sufficient to identify both the nature of the violations and, more importantly, the necessary corrective action that must be taken. To that end, please reach out to us should you have any questions about how to move this process forward in a manner that comports with New Mexico law.

Based on our analysis provided here, we will not consider this matter closed until all invalid actions addressed in this letter have been addressed and cured. However, if any issues raised in this complaint remain unresolved, we encourage the complainant, who is copied here, to contact our office or submit a new complaint on our website with any additional information. Future complaints related to your public body will be examined with increased attention, and further information regarding your public body's training and policies may be requested to determine what additional intervention may be needed and whether an enforcement action may be necessary to ensure government accountability.

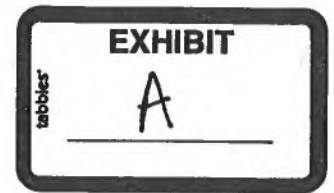
Thank you for your attention to this important matter and for your commitment to promote government transparency through your public body. If our agency can answer any questions or be of further assistance, please do not hesitate to contact our Government Counsel and Accountability Division or visit our website for additional resources at <https://nm DOJ.gov/about-the-office/civil-affairs/#government-counsel-and-accountability>.

Sincerely,

A handwritten signature in black ink, appearing to read 'Blaine', with a long horizontal flourish extending to the right.

Blaine Moffatt  
Division Director  
Government Counsel and Accountability Division

cc: Algernon D'Ammassa ([algernon@lascrucesbulletin.com](mailto:algernon@lascrucesbulletin.com))



## NMDOJ Complaint/Tip Submission

### Submission Detail

**ECS Reference Number** NMDOJ-ECS-20240329-2493  
**Final Submit Date** 3/29/2024 1:30:39 PM

**Disclosure of your complaint/tip:** A copy of this complaint/tip may be sent to the business/entity/agency against whom I am filing this complaint/tip. This complaint/tip is a public record, thus available under provisions of the NM Inspection of Public Records Act.

**Disclosure to other entities:** This complaint/tip, its content, and other information may be disclosed to other law enforcement and regulatory agencies.

**I understand disclosure statements.**

**DECLARATION:** By submitting this form, I attest that the information in this complaint/tip is true and accurate to the best of my knowledge. I further understand that by submitting this form I may be called to testify as a witness in this matter.

**I understand declaration statement.**

*The State of New Mexico Department of Justice cannot give legal advice regarding this complaint/tip and will not act as your personal attorney. If you have questions regarding your rights please contact a private attorney.*

*Submission of this complaint/tip is not confirmation that an investigation will be initiated.*

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**State of New Mexico Department of Justice**  
201 Third St. NW, Suite 300 | Albuquerque, NM 87102 | (505) 717-3500 | NMDOJ.GOV

## Complaint/Tip Detail

**Complaint Type** Open Meetings (OMA) Complaint  
**Retained Attorney**

## Parties

### Complainant/Tip Submitter

Algernon D'Ammassa

Person

### Address

506 S. Main Street  
Suite 250  
Las Cruces, New Mexico 88001

### Contact information

algernon@lascrucesbulletin.com  
(575) 545-7613

## Complaint/Tip against

City of Las Cruces

Public Body (Government Entity)

### Address

700 N. Main Street  
Las Cruces, New Mexico 88001

### Contact information

itaumoepeau@lascruces.gov  
(575) 541-2078  
www.LasCruces.gov

Ikani Taumoepeau is an assistant city manager and designate for city manager as of April 1.

## Complaint/Tip Specifics

<b>Specific date(s) of OMA violation(s)</b>	During February, leading up to Feb. 28, 2024; March 18; March 20
<b>Closed Meetings</b>	Final action was taken by the public body in the closed meeting
<b>Conducting/discussing business outside of an open meeting</b>	A quorum of the public body formulated policy discussed public business, or took action outside of an open meeting. A "rolling quorum" was used to discuss public business (i.e., a quorum may exist even when the members are not physically present at the same place, such as discussing public business in a series of telephone or email conversations)

## Transaction

## Documents



Complaint.pdf

Complaint

**Comments**

This details the complaint, consisting of three questions about OMA compliance.



Agendas.pdf

Agendas

**Comments**

City of Las Cruces official meeting agendas referred to in the complaint.




Emails.pdf

Emails

**Comments**

Email communications referred to in the complaint.



Press releases.pdf

Press releases

**Comments**

Press releases from the city of Las Cruces referred to in the complaint.

**\*\*\* END OF COMPLAINT/TIP \*\*\***

## Algernon D'Ammassa

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**From:** Algernon D'Ammassa  
**Sent:** Friday, March 22, 2024 2:16 PM  
**To:** Mandy Leatherwood Guss  
**Subject:** Re: Press query from the Las Cruces Bulletin

Hi Mandy,

Thank you. I'm almost done, if you'll indulge a follow-up.

I think the problem may (or may not) be at the beginning of this process when Mr. Pili discussed with an undisclosed number of council members about going with an internal hire. Under **10-15-1** of the Open Meetings Act, it says: "**The formation of public policy or the conduct of business by vote shall not be conducted in closed meetings. All meetings of any public body except the legislature and the courts shall be public meetings, and all persons desiring shall be permitted to attend and listen to the deliberations and proceedings.**"

Based on presentations by the city, it seems there may have been a rolling quorum even if a vote was not taken, because public business was discussed, in this instance the process of selecting a city manager. I'm not aware of an exemption with respect to deciding whether the process would be internal or external, and I wondered if perhaps there had been legal advice to that effect. Absent some sort of exemption, if a quorum of the members discussed the matter separately with Mr. Pili, even without a vote there is an OMA question.

In search of an answer, we looked to the Attorney General's compliance guide ( <https://www.nmag.gov/wp-content/uploads/2021/11/Open-Meetings-Act-Compliance-Guide-2015-Edit.pdf> ) and that document states that the exemption for "limited personnel matters" applies to discussion of individual employees. However, the document states, "The exception does not permit a public policymaking body to retreat into executive session to discuss personnel policies, procedures, budget items, and other issues not concerning the qualifications or performance of specific individuals. This point is emphasized in Section 10-15-1(B) of the Act (discussed above), which specifies that meetings of a public body held to formulate public policy 'including the development of personnel policy, rules, regulations or ordinances' are open meetings."

It looks to us – and we'll happily accept the correction if we're reading this wrongly – that the decision about the process itself was a policy discussion and not a personnel discussion.

We are pursuing because the process has moved very quickly without much opportunity for the public to view the process in open session and ultimately we want our reporting to explain why that was.

Thanks!

Algernon D'Ammassa  
Managing editor and reporter  
*Las Cruces Bulletin*

1740-A Calle de Mercado  
Las Cruces, NM 88005  
575-545-7613 (mobile)  
[algernon@lascrucesbulletin.com](mailto:algernon@lascrucesbulletin.com)

*(Pronounce the G like a 'J' and ignore the apostrophe: AL-ger-non Duh-MA-sa)*

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**From:** Mandy Leatherwood Guss <[mguss@lascruces.gov](mailto:mguss@lascruces.gov)>  
**Sent:** Friday, March 22, 2024 10:35 AM  
**To:** Algernon D'Ammassa <[algernon@lascrucesbulletin.com](mailto:algernon@lascrucesbulletin.com)>  
**Subject:** RE: Press query from the Las Cruces Bulletin

Hello Algernon,

I received input from our City Attorney and City Clerk. The City has followed the Open Meetings Act. To more specifically answer your questions: The City Council is aware that final action on the City Manager selection must take place in open session and is scheduled for discussion at an open meeting on April 1, 2024. I do not know how many Councilors Mr. Pili spoke with. There was no rolling quorum as no policy was voted on. Legal staff was not consulted about proceeding with an internal hire. City Council met in a noticed closed meeting on March 18 to review internal candidates and determine the hiring process. City Council met on March 20 in a noticed closed meeting to interview and tentatively select a candidate. As required by the Open Meetings Act, City Council will take final action on selecting a City Manager at an open meeting on April 1, 2024.

Thank you,

**Mandy Guss**

Communications Director



---

**From:** Algernon D'Ammassa <[algernon@lascrucesbulletin.com](mailto:algernon@lascrucesbulletin.com)>  
**Sent:** Thursday, March 21, 2024 5:03 PM  
**To:** Mandy Leatherwood Guss <[mguss@lascruces.gov](mailto:mguss@lascruces.gov)>  
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Hi Mandy,

We have some process questions regarding the selection process for the new city manager and the Open Meetings Act.

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Was a council vote on selecting, and making an offer, to a candidate required under OMA, or did legal staff advise that OMA that an offer could be made without action in a noticed meeting?

Thanks very much.

Algernon D'Ammassa  
Managing editor and reporter  
*Las Cruces Bulletin*  
1740-A Calle de Mercado  
Las Cruces, NM 88005  
**575-545-7613 (mobile)**  
[algernon@lascrucesbulletin.com](mailto:algernon@lascrucesbulletin.com)

*(Pronounce the G like a 'J' and ignore the apostrophe: AL-ger-non Duh-MA-sa)*

## Algernon D'Amassa

---

**From:** Mandy Leatherwood Guss <mguss@lascruces.gov>  
**Sent:** Friday, March 22, 2024 10:36 AM  
**To:** Algernon D'Amassa  
**Subject:** RE: Press query from the Las Cruces Bulletin

Hello Algernon,

I received input from our City Attorney and City Clerk. The City has followed the Open Meetings Act. To more specifically answer your questions: The City Council is aware that final action on the City Manager selection must take place in open session and is scheduled for discussion at an open meeting on April 1, 2024. I do not know how many Councilors Mr. Pili spoke with. There was no rolling quorum as no policy was voted on. Legal staff was not consulted about proceeding with an internal hire. City Council met in a noticed closed meeting on March 18 to review internal candidates and determine the hiring process. City Council met on March 20 in a noticed closed meeting to interview and tentatively select a candidate. As required by the Open Meetings Act, City Council will take final action on selecting a City Manager at an open meeting on April 1, 2024.

Thank you,

**Mandy Guss**

Communications Director



**CITY OF LAS CRUCES**

---

**From:** Algernon D'Amassa <algernon@lascrucesbulletin.com>  
**Sent:** Thursday, March 21, 2024 5:03 PM  
**To:** Mandy Leatherwood Guss <mguss@lascruces.gov>  
**Subject:** Press query from the Las Cruces Bulletin

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## Algernon D'Ammassa

---

**From:** Mandy Leatherwood Guss <mguss@lascruces.gov>  
**Sent:** Monday, March 25, 2024 8:57 AM  
**To:** Algernon D'Ammassa  
**Subject:** RE: Press query from the Las Cruces Bulletin

Good Morning Algernon,

As I previously stated, we are confident the City has fully complied with the Open Meetings Act throughout this process.

If you have questions about the interpretation of OMA, you can reach out to the Attorney General.

Thank you,

**Mandy Guss**

Communications Director



**CITY OF LAS CRUCES**

**From:** Algernon D'Ammassa <algernon@lascrucesbulletin.com>  
**Sent:** Friday, March 22, 2024 2:16 PM  
**To:** Mandy Leatherwood Guss <mguss@lascruces.gov>  
**Subject:** Re: Press query from the Las Cruces Bulletin

Hi Mandy,

Thank you. I'm almost done, if you'll indulge a follow-up.

I think the problem may (or may not) be at the beginning of this process when Mr. Pili discussed with an undisclosed number of council members about going with an internal hire. Under **10-15-1** of the Open Meetings Act, it says: "**The formation of public policy or the conduct of business by vote shall not be conducted in closed meetings. All meetings of any public body except the legislature and the courts shall be public meetings, and all persons desiring shall be permitted to attend and listen to the deliberations and proceedings.**"

Based on presentations by the city, it seems there may have been a rolling quorum even if a vote was not taken, because public business was discussed, in this instance the process of selecting a city manager. I'm not aware of an exemption with respect to deciding whether the process would be internal or external, and I wondered if perhaps there had been legal advice to that effect. Absent some sort of exemption, if a quorum of the members discussed the matter separately with Mr. Pili, even without a vote there is an OMA question.

In search of an answer, we looked to the Attorney General's compliance guide (<https://www.nmag.gov/wp-content/uploads/2021/11/Open-Meetings-Act-Compliance-Guide-2015-Edit.pdf>) and that document states that the exemption for "limited personnel matters" applies to discussion of individual employees. However, the document states, "The exception does not permit a public policymaking body to retreat into executive session to discuss personnel policies, procedures, budget items, and other issues not concerning the qualifications or performance of specific individuals. This point is

emphasized in Section 10-15-1(B) of the Act (discussed above), which specifies that meetings of a public body held to formulate public policy 'including the development of personnel policy, rules, regulations or ordinances' are open meetings."

It looks to us – and we'll happily accept the correction if we're reading this wrongly – that the decision about the process itself was a policy discussion and not a personnel discussion.

We are pursuing because the process has moved very quickly without much opportunity for the public to view the process in open session and ultimately we want our reporting to explain why that was.

Thanks!

Algernon D'Ammassa

Managing editor and reporter

*Las Cruces Bulletin*

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*Las Cruces, NM 88005*

**575-545-7613 (mobile)**

[algernon@lascrucesbulletin.com](mailto:algernon@lascrucesbulletin.com)

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**Mandy Guss**

Communications Director



**CITY OF LAS CRUCES**

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**Sent:** Thursday, March 21, 2024 5:03 PM

**To:** Mandy Leatherwood Guss <[mguss@lascruces.gov](mailto:mguss@lascruces.gov)>

**Subject:** Press query from the Las Cruces Bulletin

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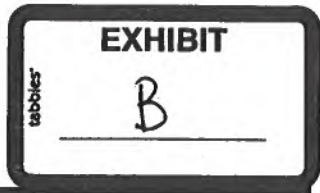
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**Algernon D’Ammassa**

**From:** City of Las Cruces Communications Office <noreplycommunications@las-cruces.org>  
**Sent:** Wednesday, February 28, 2024 8:29 AM  
**To:** Algernon D’Ammassa  
**Subject:** NR: City Manager Ifo Pili Resigns

[View this email in your browser](#)



## NEWS RELEASE

Date: Feb. 28, 2024  
Contact: Communications Office  
Phone: (575) 541-2200

### **City Manager Ifo Pili Announces His Resignation**

*City Council will hire a new City Manager.*

Las Cruces City Manager Ifo Pili has accepted an offer to become City Manager in another state.

Pili’s departure from Las Cruces is anticipated in March.

“I have been honored to lead the City of Las Cruces for the last several years. It has been a privilege to work with a committed City Council and move their vision forward. I am proud of the work the staff has done and I know I will be hearing more about their future accomplishments.”



Pili began as Las Cruces City Manager on Wednesday, Sept. 9, 2020. As the City's top administrator for more than three years, Pili has grown City government's workforce to more than 1,800 employees. The City's Fiscal Year 2024 budget of \$519 million, which provides services and programs for more than 111,000 city residents, has steadily increased during his time as City Manager.

Numerous General Obligation Bond projects have been initiated and completed during Pili's tenure as City Manager. The city also has seen several new projects and significant programs implemented, including enhancements at the Las Cruces Innovation and Industrial Park, the start of the LiftUp Las Cruces program, and the establishment of a Mobile Integrated Health unit for the Las Cruces Fire Department.

Mayor Eric Enriquez, who previously served with Pili as an assistant city manager, said Pili's leadership of City government has been stellar.

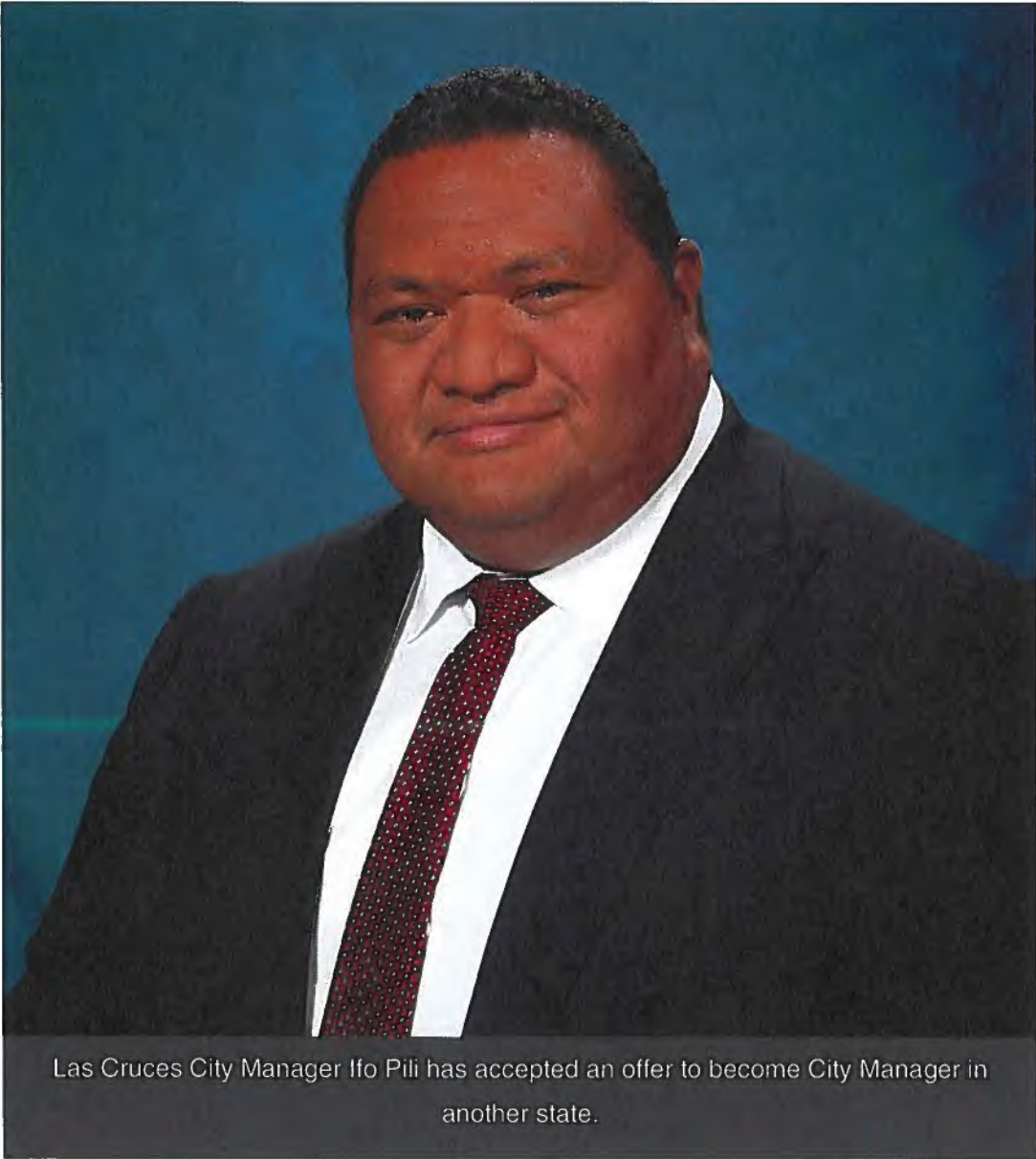
"While we are sad to see Ifo leave Las Cruces, we know that he has built a strong leadership team at the City. We are lucky to have many highly qualified and dedicated professionals in this organization who could serve the community well as City Manager."

Internal applications for the City Manager's position began being accepted Wednesday, Feb. 28, 2024. The Las Cruces City Council will hire a new City Manager, and interviews are anticipated to begin in March.

A City Council announcement on the selection of a new City Manager is anticipated at an upcoming City Council meeting. The City Manager is the only position hired by the Las Cruces City Council.

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## Algernon D'Ammassa

---

**From:** City of Las Cruces Communications Office <noreplycommunications@las-cruces.org>  
**Sent:** Tuesday, March 19, 2024 3:31 PM  
**To:** Algernon D'Ammassa  
**Subject:** Three to Interview for City Manager Position

[View this email in your browser](#)



## NEWS RELEASE

Date: March 19, 2024

Contact: Communications Office

Phone: (575) 541-2200

### **Three Candidates to Interview for City Manager**

Las Cruces City Council will convene in closed session Wednesday, March 20, 2024, to interview three candidates for the position of City Manager, the only employee who is hired by City Council.

The three candidates are Sonya Delgado, Assistant City Manager; David Sedillo, Director of Public Works; and Ikani Taumoepeau, Assistant City Manager.

City Council met in closed session Monday, March 18, with the director and

deputy director of the City's Human Resources Department to confirm the process for hiring the next City Manager. The three finalists were selected by City Council during the meeting.

No applicants were present during Monday's closed session and no interviews were conducted. Councilors selected three finalists after reviewing applications of nine internal candidates. Councilors chose to select the new City Manager from qualified applicants already employed by the City of Las Cruces.

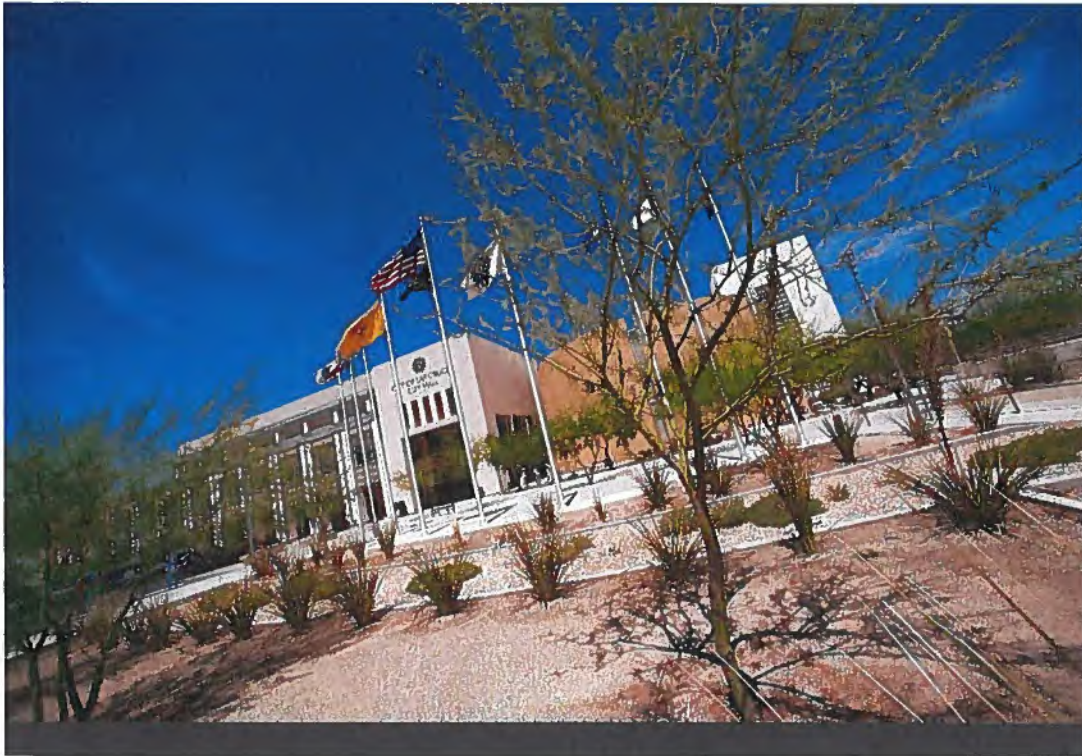
A decision by City Council will be made during an open meeting sometime after the March 20 interviews are completed.


Besides the three finalists, applicants included: Barbara Bencomo, Chief Administrative Officer; Leeann DeMouche, Director of Finance; Christopher Faivre, Deputy Director of Economic Development; Timothy Pitts, Deputy Director of Community Development; Elizabeth Teeters, Director of Economic Development; and Charles Tucker, Inspector General.

Ifo Pili, City Manager since September 2020, announced his resignation from the City in February to assume a similar position in Utah. Pili appointed Delgado to the position of Acting City Manager until further notice from City Council. Pili's resignation becomes effective March 31, 2024.

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## Algernon D'Ammassa

---

**From:** City of Las Cruces Communications Office <noreplycommunications@las-cruces.org>  
**Sent:** Thursday, March 21, 2024 4:37 PM  
**To:** Algernon D'Ammassa  
**Subject:** NR: Taumoepeau Selected City Manager

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## NEWS RELEASE

Date: March 21, 2024

Contact: Communications Office

Phone: (575) 541-2200

### **Las Cruces City Council Selects Ikani Taumoepeau to Serve as City Manager**

City Council has made a tentative offer to Ikani Taumoepeau to serve as Las Cruces City Manager beginning April 1, 2024.

"City Council chose Ikani for his experience, knowledge, and his ability to work well with the community, organization, and with Mayor and Council," said Mayor Eric Enriquez. "Since he joined us three years ago, Ikani has shown that he cares for the people in the organization and the community. We have seen his leadership displayed during his time as Assistant City Manager and are excited



to see his leadership skills grow and flourish as our City Manager.

“The decision was not easy, as both finalists Sonya Delgado and David Sedillo are also very strong leaders,” Enriquez added. “It is a testament to the leadership in this organization that we had the difficult task of choosing between so many qualified candidates.”

Taumoepeau said, “I am honored to be chosen as Las Cruces City Manager. I have had the privilege to work with City Council, City staff, and the community in the last several years and am proud of the work we have done so far. I look forward to continuing to implement the vision of City Council and make Las Cruces the community that we all want to live and thrive in. I am lucky to work with talented and dedicated people who are committed to serving the community with cariño!”

Taumoepeau began working with the City of Las Cruces as Assistant City Manager in January 2021. During that time, many City departments have reported to him including Airport, Community Development, Economic Development, Facilities Management, Fleet, Parks and Recreation, Quality of Life, RoadRUNNER Transit, Sustainability, and Visit Las Cruces.

In his time as Assistant City Manager, Taumoepeau has overseen projects such as the implementation of GO Bond Parks Improvements, moved RoadRUNNER Transit to zero-fare, rolled out a new Visit Las Cruces brand campaign, and offered the City’s first airshow at Las Cruces International Airport.

Taumoepeau previously served as City Manager in Clayton, Calif., Assistant City Manager in Santa Paula, Calif., Deputy City Manager in Morro Bay, Calif. and Economic Development Director in Eagle Mountain, Utah. Taumoepeau earned a Bachelor of Arts degree in history, with a minor in Spanish, and a Master of Public Administration degree from Brigham Young University in

Provo, Utah. He is also bilingual, speaking English and Spanish.

Taumoepeau's contract will be available for review when the City Council agenda is published next week. The proposed contract will be voted on by City Council at its April 1, 2024, regular meeting.

As City Manager, Taumoepeau is the only City employee hired by City Council.

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24-100

# City Council Action and Executive Summary

- Type of Action:
- Resolution
  - Ordinance
  - TIDD Resolution

District:	<input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input checked="" type="checkbox"/> 6 <input type="checkbox"/> N/A
1st Reading:	Adopted: April 1, 2024
Drafter: Christine Rivera	Department: City Manager's Office
Program:	Line of Business: Office of City Clerk
Title:	<b>A RESOLUTION APPROVING AN EMPLOYMENT AGREEMENT FOR IKANI TAUMOEPEAU AS CITY MANAGER.</b>

TYPE OF ACTION:  Administrative  Legislative  Quasi-Judicial

**PURPOSE(S) OF ACTION:**

To approve an employment agreement for Ikani Taumoepeau as City Manager.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The City Council engaged in an internal process in a noticed closed session on March 18 and March 20, 2024, to hire a permanent City Manager as the position was vacated by Mr. Ifo Pili effective March 31, 2024.

The City Council and Ikani Taumoepeau have mutually negotiated an employment agreement for City Manager contingent upon approval in an open council meeting. The agreement is for three (3) years at a base salary of \$216,000 and includes other provisions and benefits.

The employment agreement is effective when approved by City Council.

**SUPPORT INFORMATION:**

[Exhibit "A" - Employment Contract - CM Ikani T. 4.1.2024 \(002\)](#)

**PLAN(S):**

None

**COMMITTEE/BOARD REVIEW:**

None

**DOES THIS AMEND THE BUDGET?:**

- Yes
- No

**BUDGET / FISCAL IMPACT:**

BUDGETED AMOUNT: \$432,000    AVAILABLE AMOUNT:    EXPENDITURE AMOUNT:

\$281,868.41

\$49,846.15

**Funding Source(s):**

10130001-601050

**Overall Budget Impact:**

Expenditure amount above is for remaining FY24 pay periods, full salaried amount of \$216,000 is in MUNIS Next Year Budget to cover FY25.

**Does this action amend the Capital Improvement Plan (CIP)?**

Yes

No

**Does this action align with Elevate Las Cruces?**

Yes

No

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes", this will approve the City Manager Employment Agreement for Ikani Taumoepeau effective April 1, 2024.
2. Vote "No", this means the City Manager Employment Agreement for Ikani Taumoepeau will not be approved and an interim city manager will need to be appointed.
3. Vote to "Amend", this will require the contract to be renegotiated.
4. Vote to "Table", this could delay the employment of Ikani Taumoepeau as the City Manager.

## RESOLUTION 24-100

### A RESOLUTION APPROVING AN EMPLOYMENT AGREEMENT FOR IKANI TAUMOEPEAU AS CITY MANAGER.

**WHEREAS**, the City Council engaged in an internal process in a noticed closed session on March 18 and March 20, 2024, to hire a permanent City Manager as the position was vacated by Mr. Ifo Pili effective March 31, 2024; and

**WHEREAS**, Article III, §§3.01 (a) and (b) of the City Charter provides the City Council with authority to appoint and remove the City Manager at their discretion; and

**WHEREAS**, the City Council has determined that Ikani Taumoepeau possesses the knowledge, skills, and abilities necessary to fulfill the duties and responsibilities for City Manager; and

**WHEREAS**, the City Council and Ikani Taumoepeau have mutually negotiated an employment agreement contingent upon approval in an open council meeting; and

**WHEREAS**, the agreement provides for a base salary of \$216,000 annually; and

**WHEREAS**, the agreement contains other provisions and benefits.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the City of Las Cruces:

(I)

**THAT** the Mayor and the City Council are hereby authorized to sign and approve the City Manager Employment Agreement in Exhibit "A", attached hereto and made a part of this Resolution.

(II)

**THAT** City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

**DONE AND APPROVED** this 01 day of April 2024



APPROVED

---

Mayor

ATTEST:

---

City Clerk

**Moved by: Johana Bencomo**

**Seconded by: Yvonne Flores**

**AYES** Yvonne Flores, Johana Bencomo, Becki Graham, Becky Corran, William Mattiace, Eric Enriquez

**NAYS** Cassie McClure

**CITY MANAGER EMPLOYMENT AGREEMENT  
(Exhibit A)**

**THIS AGREEMENT** is made and entered into this 1<sup>st</sup> day of April 2024, by and between the City of Las Cruces, New Mexico, a municipal corporation (“Employer”) and Ikani Taumoepeau (“Employee”), in consideration of the terms and conditions stated herein:

**RECITALS**

**WHEREAS**, Employer is a home rule municipality organized under Article X, Section 6 of the New Mexico Constitution, having adopted a City Charter (“Charter”), submitted to the Las Cruces Commission on January 7, 1985; and

**WHEREAS**, the Charter sets forth certain powers and obligations of the Governing Body of Employer with respect to entering into an employment contract with the City Manager; and

**WHEREAS**, Article III, §§3.01 (a) and (b) of the Charter provides the City Council with authority to appoint and remove the City Manager at their discretion; and

**WHEREAS**, Employer desires to employ the services of Ikani Taumoepeau as City Manager of the City of Las Cruces as provided in the Charter and consistent with the laws of the State of New Mexico and Ordinances of the City of Las Cruces; and

**WHEREAS**, Employer desires to provide certain benefits, establish certain conditions of employment, and set general working conditions of Ikani Taumoepeau; and

**WHEREAS**, Employer desires to secure and retain the services of Ikani Taumoepeau as City Manager and to provide an inducement for Ikani Taumoepeau to remain in such employment; and

**WHEREAS**, Employer desires to make possible full work productivity by assuring Ikani Taumoepeau morale and peace of mind with respect to future security; and

**WHEREAS**, Employer desires to provide a means for terminating Ikani Taumoepeau service at such time as Employee may be unable to fully discharge Employee's duties due to disability, Employee's malfeasance or dishonesty, or when Employer may, as provided further herein, otherwise desire to terminate Ikani Taumoepeau's services; and

**WHEREAS**, the parties acknowledge that Ikani Taumoepeau is subject to the International City/County Managers Association (ICMA) Code of Ethics; and

**WHEREAS**, Ikani Taumoepeau desires to accept employment as City Manager in accordance with the terms and conditions of this Agreement and the Charter for the City of Las Cruces.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the parties agree as follows:

**SECTION 1. DUTIES**

Employer hereby agrees to employ the services of Ikani Taumoepeau as City Manager for the City of Las Cruces, New Mexico. Ikani Taumoepeau agrees to accept employment and act as City Manager for the City of Las Cruces, New Mexico and to carry out, to the best of his ability, all the duties imposed upon that office by Charter and those other legally permissible and proper duties and functions as the Governing Body

of the City, from time to time, may require of and assign to that office.

**SECTION 2. STATUS AND TERM**

- A. The term of this Agreement begins April 1, 2024, and shall terminate April 1, 2027, unless extended in writing. Employee shall be considered an at-will employee of the City. This employment agreement shall become effective upon approval by the Governing Body and employment shall commence on the date stated above.
- B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the Governing Body's right granted in the Charter to terminate this Agreement, with or without cause, at any time, subject only to the provisions set forth in Section 3 of this Agreement, the laws of the State of New Mexico, City Charter or Ordinances of the City of Las Cruces, as they may be applicable.
- C. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign and terminate this Agreement at any time, subject only to the provisions set forth in Section 3 of this Agreement.
- D. Employee agrees to remain in the exclusive employ of Employer for an indefinite period and shall neither accept other employment nor become employed by any other employer without the prior written approval of the Governing Body of the City or until written notice of resignation is given by Employee.
- E. Employee agrees to become a City resident within six (6) months of the date of hire as the City Manager.

The term "employed" (and derivations of that term as used in the preceding paragraph) shall include employment by another legal entity or self-employment, but shall not be construed to include occasional teaching, writing, consulting, or military reserve service performed on Employee's own time and with the advance approval of the Governing Body.

### **SECTION 3. TERMINATION OF EMPLOYMENT AND SEVERANCE PAY**

- A. Except as provided in paragraph B of this section, in the event Employee is terminated by Employer during such time that Employee is willing and able to perform Employee's duties under this Agreement, Employer agrees to pay Employee a severance package as described in paragraph C of this section.
- B. The following reasons shall constitute grounds to terminate this Agreement without payment of the severance package provided in paragraph C of this Agreement:
1. a willful breach of this Agreement or the willful and repeated neglect by Employee to perform the duties Employee is required to perform under this Agreement; or
  2. conviction of any criminal act relating to employment with the City; or
  3. violation of the rules and conduct or ethics of any licensing or certification entity or body of which Employee holds a current license or certification; or
  4. violation of the City's personnel rules which constitute misconduct; or
  5. violation of the City's or State of New Mexico rules of ethics or conduct; or
  6. conviction of any felony offense, or
  7. employee fails to become a City resident within six (6) months from the date of hire as the City Manager.
- C. Except as provided in paragraph B of this section, in the event Employee is terminated by Employer during such time that Employee is willing and able to perform Employee's duties under this Agreement, Employer agrees to pay Employee a lump sum cash severance payment equal to twelve (12) months aggregate salary and benefits, including cost of health and dental premiums if applicable, and if such termination occurs on or before April 1, 2026. If termination of this Agreement occurs after April 1, 2026, Employee shall be provided a cash severance payment equal to the prorated amount remaining on the Agreement term. Employee shall also be compensated for all earned annual leave, holidays and other applicable accrued benefits, if any, to the date of separation. Sick leave accrued to that date shall be paid out in accordance with the Employer's Personnel Policies and Work Rules, as they may be amended from time to time. The benefits provided as a part of termination shall not include the provision of an automobile or automobile allowance, nor shall it include the continued accrual of leave benefits beyond the date of termination. The severance payment and benefits shall be an entitlement accrued under the conditions referenced herein and shall be paid without regard to whether the Employee has secured other employment.
- All amounts set forth in the above paragraph will be subject to applicable withholdings including federal, state and local taxes.
- D. In the event Employee voluntarily resigns Employee's position with Employer, Employee shall provide at least sixty (60) calendar days advance written notice, unless the parties otherwise agree, and such agreement is in writing.
- E. It is understood that after notice of termination or resignation in any form, Employee and Employer will cooperate to provide for an orderly transition. Specific responsibilities during such transition may be specified in a written separation agreement.

#### **SECTION 4. SALARY**

- A. Effective April 1, 2024, Employer agrees to pay Employee for services rendered a starting annual base salary of \$216,000.00 per year, payable in biweekly installments at the same time and manner as other management employees of the Employer are paid. The Employer's budget will contain all salary and benefit amounts. In addition, Employer agrees to adjust, in Employer's sole discretion and subject to Subsection 3(D) above, said base salary and/or benefits of Employee in such amounts and to such extent as the Governing Body may determine that it is desirable to do so on the basis of an annual salary review of said Employee made at the same time as similar consideration is given other employees generally.

#### **SECTION 5. PERFORMANCE EVALUATION**

- A. Employer shall, at a minimum, annually review the performance of Employee. The evaluation shall take place within the month of July.
- B. Annually, Employer and Employee shall define such goals and performance objectives that they determine necessary for the proper operation of the Employer, and the attainment of Employer's policy objectives, and shall further establish a relative priority among those various goals and objectives. Said goals and objectives shall be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations.
- C. A Performance Evaluation by the Governing Body will determine an overall rating of Employee's performance. The rating may be a factor in determining annual merit pay increases. Merit pay increases are not guaranteed. The process at a minimum shall include the opportunity for both parties to:
1. Prepare a written evaluation;
  2. Meet and discuss the evaluation in closed session; and
  3. Present a written summary of the evaluation.
- D. Failure to conduct an annual evaluation in the month of July shall imply the Employee's performance evaluation is satisfactory, unless otherwise later determined by the Governing Body of the City pursuant to a subsequent evaluation conducted in accordance with this Agreement.

In effecting the provisions of this section, the Employer and Employee mutually agree to abide by the provisions of applicable law.

#### **SECTION 6. HOURS OF WORK**

Recognizing that Employee must devote a significant amount of time outside of normal office hours to the business of Employer, it is agreed that Employee shall be allowed to adjust his work week as he deems appropriate during said office hours, but in no event shall Employee work less than an average of forty (40) hours per week including time taken through vacation or other approved leave.

#### **SECTION 7. TRANSPORTATION**

- A. Employee's duties require use of an automobile during his employment with Employer.
- B. Employee shall be required to purchase and maintain automobile insurance coverage of the types and amounts equal to or greater than those required by the Employer in order to operate a personal vehicle on City business.

- C. Employee shall be paid \$500.00 per month for a vehicle allowance.

#### **SECTION 8. VACATION, ANNUAL AND SICK LEAVE**

- A. Employee shall accrue, and have credited to their personal account, annual and sick leave on an annual basis at the highest rate provided to any other employee. Employee shall be entitled to accrue 160 hours of annual leave per year, and 96 hours of sick leave per year. Employee is also entitled to take sixteen (16) hours of personal leave each year.
- B. Employee shall, at least once during each year of this Agreement, take a two-week consecutive vacation. This two-week vacation will be "Paid Executive Leave", separate from annual leave, and will not require use of any accrued annual leave.

#### **SECTION 9. DISABILITY, HEALTH AND LIFE INSURANCE**

Employee is entitled to participate in employee benefits that regular City employees participate in and the Employer shall be responsible for paying any matching contributions that are paid on behalf of any other employee. The Employee benefits include, but are not limited to the following:

- A. Employee shall be entitled to participate in the City health, dental, vision, and life and disability insurance plans and Section 457 deferred compensation plan(s).
- B. In-state and out-of-state travel and per diem shall be paid on the same basis as regular City employees.
- C. Employee shall be covered under the City's Workers Compensation Plan.

#### **SECTION 10. RETIREMENT**

Employer agrees to contribute to the Public Employee's Retirement Association of New Mexico (PERA) in an amount equal to the contribution the City makes for all other unrepresented City employees. Such contribution will coincide with the pay schedule.

#### **SECTION 11. PROFESSIONAL DEVELOPMENT**

- A. Employer agrees to budget and to pay for the professional dues and subscriptions of Employee necessary for their continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for their continued professional participation, growth, and advancement to better serve the interests of the City.
- B. Employer hereby agrees to budget for, and to pay, the actual travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions necessary and adequate to continue the professional development of Employee, and to adequately pursue necessary official and other functions for the City.
- C. Employer also agrees to budget and to pay for the travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for their professional development to better serve the interests of the City.
- D. Employer hereby agrees to provide Employee with tuition reimbursement benefits to the same extent provided to other City employees.

#### **SECTION 12. OTHER TERMS AND CONDITIONS OF EMPLOYMENT**

- A. All provisions of the City Charter, City Ordinance, regulations, or rules of Employer as they now exist or hereafter may be amended, also shall apply to Employee as they would to other employees of Employer, except as may be specifically accepted herein.

**SECTION 13. NOTICES**

Notices pursuant to this Agreement shall be given either by hand delivery or by deposit in the custody of the United States Postal Service, postage prepaid, certified, return receipt requested, addressed as follows:

(1) EMPLOYER: City of Las Cruces  
City Hall  
700 N. Main  
Las Cruces, New Mexico 88004

(2) EMPLOYEE: Ikani Taumoepeau

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

**SECTION 14. GENERAL PROVISIONS**

- A. The text herein shall constitute the entire Agreement between the parties.
- B. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement shall be deemed severable, shall not be affected and shall remain in full force and effect.
- C. In performing the provisions of this Agreement, Employer and Employee mutually agree to abide by the provisions of applicable law.

**SECTION 15. APPROPRIATIONS**

No commitment of public funds will be made beyond what is approved in this Agreement. The terms of this Agreement are contingent upon sufficient appropriations being made by the Governing Body for the performance of this Agreement. If sufficient appropriations are not made, this Agreement shall terminate subject to the conditions subsequent concerning severance payment being provided by Employer to Employee as provided in Section 3. Termination pursuant to the terms of this Agreement shall not result in any claim for payment or damages by Employee or Employer. Employer's decision as to whether sufficient appropriations are available shall be accepted by Employee and shall be final.

**IN WITNESS WHEREOF**, The City of Las Cruces has caused this Agreement to be signed and executed on its behalf by its Governing Body, and duly attested by its City Clerk, and Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.

Employee:

\_\_\_\_\_  
Ikani Taumoepeau, City Manager

CITY OF LAS CRUCES, by and through its Governing Body:

\_\_\_\_\_  
Eric Enriquez, Mayor

\_\_\_\_\_  
Cassie McClure, Councilor, District 1

\_\_\_\_\_  
Bill Mattiace, Councilor, District 2

\_\_\_\_\_  
Becki Graham, Councilor, District 3

\_\_\_\_\_  
Johana Bencomo, Councilor, District 4

\_\_\_\_\_  
Becky Corran, Councilor, District 5

\_\_\_\_\_  
Yvonne Flores, Councilor, District 6

Attested to by:

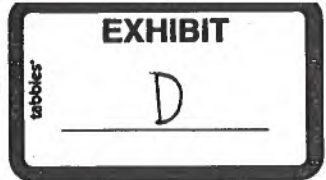
Approved as to form:

\_\_\_\_\_  
Christine Rivera, City Clerk

\_\_\_\_\_  
Linda A. Samples, City Attorney







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## City denies violating open meetings law



([https://cdn2.creativecirclemedia.com/lascruces/original/20200327-141141-CityHall\\_Photo.JPG](https://cdn2.creativecirclemedia.com/lascruces/original/20200327-141141-CityHall_Photo.JPG))

### **Las Cruces City Hall.**

LAS CRUCES BULLETIN FILE PHOTO

Posted Thursday, March 28, 2024 7:19 pm

### **Algernon D'Ammassa**

The city of Las Cruces maintains that it followed laws pertaining to public meetings early in the process of selecting a new city manager this month, despite evidence from the city's own statements that city council members discussed public business outside of open session.

The city announced the resignation of City Manager Ifo Pili with a press release on Feb. 28 which stated that internal applications for the job had opened that day, indicating a decision had been made to hire the next city manager from within rather than through an executive search.

City spokesperson Mandy Guss told the Bulletin shortly after that announcement, "The city manager hiring process was suggested by Ifo, who spoke individually with the city council members and got their OK to move forward."

New Mexico's Open Meetings Act states

(<https://nmonesource.com/nmos/nmsa/en/item/4364/index.do#10-15-1>) that "the formation of public policy or the conduct of business by vote shall not be conducted in closed meetings. All meetings of any public body except the legislature and the courts shall be public meetings, and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings."

The law further states that any meeting of a quorum, meaning the minimum number of members of a municipal government required for a legal business meeting, must comply with the requirements of official meetings of public governing bodies, including advance notice and publications of an

agenda.

That also applies to discussions of public business when members are not present at the same place or time. For instance, according to an Open Meetings Act compliance guide (<https://www.nmag.gov/wp-content/uploads/2021/11/Open-Meetings-Act-Compliance-Guide-2015-Edit.pdf>) published by the New Mexico Department of Justice: "...if three members of a five-member board discuss public business in a series of telephone or email conversations, the discussion is a meeting of a quorum."

If a quorum discusses public business in separate conversations or messages, it is referred to as a rolling or walking quorum. This provision of the law was clarified following a successful 2003 lawsuit by the Las Cruces Sun-News and the New Mexico Foundation for Open Government, complaining that the city council violated OMA by discussing official business through a rolling quorum.

Violations of OMA potentially invalidate decisions made by the council, and violators can even be charged with misdemeanors for the offense, although that is rare. In 2002, Attorney General Patricia Madrid charged five Las Cruces school board members for approving incentive pay for the superintendent outside of a legal meeting.

The city moved swiftly over the past month, with Pili naming an acting city manager the city argued did not constitute an "interim city manager," which would be an official appointment requiring council approval. The city manager is the sole city employee hired and supervised by the council, including the mayor.

According to a readout from the city, during a closed session on March 18 the council met with the city's human resources department to discuss the process and select three finalists from nine applicants for the job. On March 20, the council interviewed the three finalists in closed session, and announced the following day it had made a tentative offer to one of them: Ikani Taumoepeau, an assistant city manager since 2021 (<https://www.lascruces.gov/directory.aspx?EID=217>) who had worked with Ifo Pili at the city of Eagle Mountain, Utah prior to Pili's hire in Las Cruces.

"The City Council is aware that final action on the City Manager selection must take place in open session and is scheduled for discussion at an open meeting on April 1, 2024," Guss wrote in an email in which she stated she did not know how many councilors Mr. Pili had consulted with and insisted "there was no rolling quorum as no policy was voted on."

She also acknowledged that Taumoepeau's selection took place at the March 20 closed session, without a vote or discussion in open session. The city announced his selection the following day and said his contract would be made available ahead of the April 1 council meeting, when the body votes on its approval.

Responding to questions, Guss said the city's legal department had not been consulted about the hiring process or Open Meetings Act compliance.

When pressed on the point that a rolling quorum can exist under the law even if a vote does not take place, Guss replied, “We are confident the City has fully complied with the Open Meetings Act throughout this process. If you have questions about the interpretation of OMA, you can reach out to the Attorney General (<https://nmdoj.gov/get-help/open-meetings-act/>).”

Melanie Majors, director of the New Mexico Foundation for Open Government, said the evidence resembles “the exact definition of a rolling quorum.”

“The use of a quorum to discuss public business or take action violates the Open Meetings Act,” she said. “It may be used to produce a predetermined outcome and thus render any open meetings a mere formality. ... It sounds like they have circumvented the Open Meetings Act by using an agent, the city manager, to poll the members of the body through a series of individual contacts. That is what the definition of a rolling quorum is.”

## Keywords

Las Cruces, City of Las Cruces, Open Meetings Act, public meetings, sunshine laws

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## Las Cruces councilors approve contract for new city manager

# One councilor opposes, citing concerns about communication



(<https://cdn2.creativecirclemedia.com/lascruces/original/20240401-193709-Ikani%20smiling.jpg>)

**Las Cruces City Manager Ikani Taumoepeau is seen at city hall on April 1, 2024.**

LAS CRUCES BULLETIN PHOTO BY ALGERNON D'AMMASSA

Posted Monday, April 1, 2024 7:40 pm

## **Justin Garcia**

*This story has been updated with further comment from District 1 City Councilor Cassie McClure.*

A divided vote confirmed Ikani Taumoepeau as Las Cruces' next city manager Monday.

The vote was not without its controversies. District 1 city councilor Cassie McClure was the sole dissenting voice against the \$216,000 contract.

Taumoepeau, a former assistant city manager, was chosen

(<https://www.lascrucesbulletin.com/stories/ikani-taumoepeau-chosen-as-las-cruces-city-manager,75779>) from a pool of nine internal candidates. The decision to hire internally, initiated by

former city manager Ifo Pili outside of a council meeting, has raised questions (<https://www.lascrucesbulletin.com/stories/city-denies-violating-open-meetings-law,76450>) about transparency and legality.

“I also have faith in (Taumoepeau)’s ability to do his job and have had nothing but good interactions with him even before I was a councilor,” McClure said at the end of the meeting. “As a writer, I place a huge premium on communication, and this is still a very uncomfortable forum for me to speak in public. But I think communication builds trust, and I think we failed in that for this round.”

McClure cited a proposed zoning change that was not well publicized as an example, but did not specifically mention the process that led to Taumoepeau’s ascension.

After the meeting, McClure declined to be interviewed by three media outlets present, including the Las Cruces Bulletin. She said she’d release a statement on Facebook in lieu of an interview.

There, McClure wrote that picking a city manager was among the council's most important jobs, but the process was rushed and skipped over the public, she said.

"I – speaking for myself as I won't speak for the rest of council – would have wished there had been more ways to create confidence, and build trust, for the voters by explaining why an internal hire was preferred," McClure wrote.

Taumoepeau himself called the decision to hire internally “brave.” He said it was merited by the talent pool of staff members working for the city of Las Cruces.

“I promise each and every one of you that I will give you 120 percent of myself,” Taumoepeau said before the council approved the contract. “I can do that because there is a staff of 1,700 qualified, intelligent staff that will give the shirt off their back to impress you.”

The contract is three years long. It includes a \$500 monthly vehicle allowance, health benefits, two weeks of vacation, 16 hours of personal leave, 160 hours of annual leave and 96 hours of sick leave.

“Folks might look at that and say, ‘Wow, that salary,’ or ‘Wow, those benefits’,” Johana Bencomo said. “But honestly, it’s because this job is incredibly difficult.”

Unlike Albuquerque or Santa Fe, Las Cruces has a weak council system that empowers an unelected city manager as the executive officer. Taumoepeau will oversee a workforce of 1,700 and a budget of more than \$500 million.

## Keywords

Las Cruces, Ikani Taumoepeau, Las Cruces City Council

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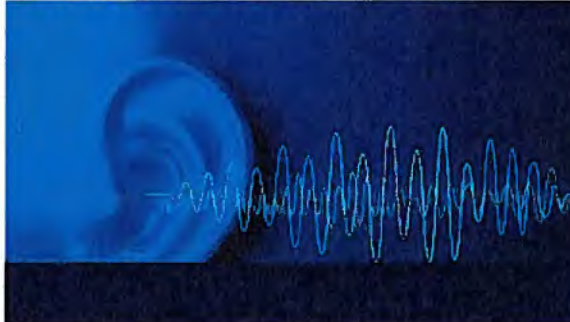
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**Blaine Moffatt**

---

**From:** Brad Douglas <bdouglas@lascruces.gov>  
**Sent:** Friday, September 6, 2024 4:26 PM  
**To:** Blaine Moffatt  
**Cc:** Christine Rivera  
**Subject:** City of Las Cruces partial response to Complaint No. NMDOJ-ECS-20240329-2493  
**Attachments:** CLC Responses to Nos. 3 and 6.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Mr. Moffatt,

Attached please find the City's responses to Requests #3 and #6 of your inquiry.

In addition, **Request No. 4** seeks an explanation as to why City Council did not make the required statement until its April 1, 2024 regular meeting. The City's response is as follows:

NMSA 1978, Sec. 10-15-1(J) states: "Following completion of any closed meeting, the minutes of the open meeting that was closed or the minutes of the next open meeting if the closed meeting was separately scheduled shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the public body under Subsection G of this section as part of the minutes."

City Council did not make its required statement until April 1, 2024 because of a simple misinterpretation of the requirement by City staff. Because the closed meeting took place on the morning of March 18, 2024, and the open meeting took place that same afternoon, staff interpreted "next open meeting" to mean the next open meeting on a subsequent date. Unfortunately, this led to a two-week delay. This issue has been discussed with all relevant parties and will be corrected in the future.

Please let me know if you have any additional questions and/or concerns. City staff is working diligently to fulfill the remainder of your request.

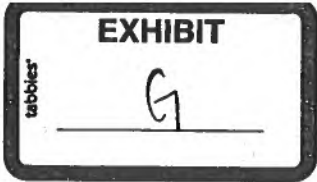
Best regards,

Brad Douglas  
City Attorney  
T: (575) 541-2128  
Email: bdouglas@lascruces.gov  
P.O. Box 20000, Las Cruces, NM 88004



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**Blaine Moffatt**

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**From:** Brad Douglas <bdouglas@lascruces.gov>  
**Sent:** Tuesday, September 10, 2024 1:59 PM  
**To:** Blaine Moffatt  
**Cc:** Christine Rivera; Karri Cordova  
**Subject:** City Supplemented Response to Complaint No. NMDOJ-ECS-20240329-2493

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello Mr. Moffatt,

Thank you for your patience. Below are the City’s responses to your inquiries:

**Request No. 1:** “Please provide an explanation of how City Council decided to limit its search for a new city manager to internal candidates.”

Answer: Upon information and belief, former City Manager Ifo Pili consulted with the Mayor and informed him that he believed that the organization had enough strong internal candidates to merit an in-house hiring process. The rationale behind this was that an internal hiring process would be expeditious and represent a cost-saving measure, along with the added benefit of there being no long-term vacancy for the office of City Manager, so as to avoid institutional disruption. At this point, the Mayor set the matter for a Closed Meeting pursuant to NMSA 1978, Sec. 10-15-1(H)(2), for the purpose of discussing internal personnel matters, i.e., the hiring of a new City Manager.

**Request No. 2:** “If Mr. Pili communicated in writing (via email, text, or otherwise) with any Council members of City employees about the decision to limit the search to internal candidates, please provide copies of those communications.”

Answer: Upon information and belief, and after the City’s Information Technology department conducted a search of relevant email accounts and text records, no such records exist.

**Request No. 3:** “Please provide evidence that the March 18, 2024 closed session was properly noticed per OMA’s requirements that a draft agenda be posted by [at] least seventy-two hours prior to the meeting.”

Answer: Please see the email communication and attachments sent by undersigned on or about September 6, 2024.

**Request No. 4:** “On March 18, 2024, City Council records show that there was a regular City Council meeting held at 1:00 pm, immediately following the March 18 closed session. The agenda and the minutes of that regular meeting do not show that the statement required by NMSA 1978, Sec. 10-15-1(J) was made at that meeting. Please explain why City Council did not make the required statement until its April 1, 2024, regular meeting.”



Answer: Please see the email communication and attachments sent by undersigned on or about September 6, 2024.

**Request No. 5:** “Please explain when any final actions relating to the selection of the city manager that were discussed at the March 18, 2024, closed session were not taken in open session by City Council.”

Answer: The council meeting was closed pursuant to NMSA 1978, Sec. 10-15-1(H)(2), which states that meetings may be closed for, “limited personnel matters; provided that for purposes of the Open Meetings Act, “limited personnel matters” means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee; provided further that this paragraph is not to be construed as to exempt final actions on personnel from being taken at open public meetings...”

The City did not take any final actions during the March 18, 2024 meeting. Council discussed the hiring of a new city manager. However, the final action on the hiring decision was made at an open meeting on April 1, 2024, consistent with the requirements of the Open Meetings Act, irrespective of any possible deficiencies that occurred prior.

**Request No. 6:** “Please provide evidence that the March 20, 2024, closed session was properly noticed per OMA’s requirements that a draft agenda be posted by [at] least seventy-two hours prior to the meeting.”

Answer: Please see the email communication and attachments sent by undersigned on or about September 6, 2024.

**Request No. 7:** “Please explain the decisions that City Council made during its March 20, 2024, closed session that resulted in an employment contract being drafted and presented at Council’s regular April 1, 2024 meeting.”

At the conclusion of the interviews, Candidate Taumoepeau had the most support from Council. The employment contract was negotiated the same day, subject to a final action in an open Council meeting.

**Request No. 8:** “Please provide copies of any communications (emails, texts, or otherwise) between, on the one hand, City Council or City human resources staff and, on the other hand, Mr. Taumoepeau during the period of March 20, 2024 to April 1, 2024.”

Answer: Please see email and text message information provided separately on external storage device sent to your office via Certified Mail on or about September 10, 2024.

If you feel that this response is in some way lacking and/or incomplete, please do not hesitate to contact me for any needed clarification. Hope you are doing well.

Best regards,

Brad Douglas  
City Attorney  
T: (575) 541-2128

Email: [bdouglas@lascruces.gov](mailto:bdouglas@lascruces.gov)  
P.O. Box 20000, Las Cruces, NM 88004



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With: Ikani (CM) (8017228219)

3/20/2024 12:00 AM to 4/1/2024 11:59 PM

PDF generated on 9/9/2024 using Decipher TextMessage



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**3/20/2024 7:37 PM (Viewed 3/21/2024 8:14 AM)**

Ikani (CM) (8017228219)

Hi Councilor McClure, just wanted to say thank you for the opportunity to serve you and Council. I am humbled and blessed, and looking forward to catching up in our 1:1 in upcoming weeks, learning more about you, and your priorities. Pls reach out anytime. Thank you -Ikani

**3/21/2024 8:15 AM**

Cassie's iPhone (+15753027139)

Good morning Ikani! I'm sorry I didn't see this last night! Congratulations! I look forward to working with you -- and thank you for helping with the hard copy of Realize. :)

---

2 total messages and 0 total images.

2:55

77



Ikani T >

Wed, Mar 20 at 6:06 PM

Hi Councilor Corran, I would be remiss if I didn't send you a thank you note. I am so grateful for your support and trust. I look forward to our 1:1 mtgs to learn more about you and your priorities. If there is anything I can do for you in the meantime, pls let me know. Thank you!

Thank you for considering the new role. I look forward to working with you moving forward!



Thanks again Councilor Corran



**Blaine Moffatt**

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**From:** Brad Douglas <bdouglas@lascruces.gov>  
**Sent:** Tuesday, October 29, 2024 5:31 PM  
**To:** Blaine Moffatt  
**Cc:** algernon@lascrucesbulletin.com; Karri Cordova  
**Subject:** Additional Information for Complaint No. NMDOJ-ECS-20240329-2493  
**Attachments:** NMDOJ Supplemental Documents.pdf; March 18 2024 Closed Meeting Statement.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello Mr. Moffatt,

I am contacting you with regard to your follow-up communication from October 22, 2024. Please see below for additional information, along with attached documentation:

**Request No. 9:** “In Request No. 1, the GCA asked the City Council to provide an explanation of how the City Council decided to limit its search for a new city manager to internal candidates. The City Council provided the following response:

‘Upon information and belief, former City Manager Ifo Pili consulted with the Mayor and informed him that he believed that the organization had enough strong internal candidates to merit an in-house hiring process. The rationale behind this was that an internal hiring process would be expeditious and represent a cost-saving measure, along with the added benefit of there being no long-term vacancy for the office of City Manager, so as to avoid institutional disruption. At this point, the Mayor set the matter for a Closed Meeting pursuant to NMSA 1978, Sec. 10-15-1(H)(2), for the purpose of discussing internal, personnel matters, i.e., the hiring of a new City Manager.’

Per the City Council’s response, the City Council had a closed meeting to discuss the hiring of a new city manager after Mr. Pili and Mr. Enriquez discussed limiting its search for a new city manager to internal candidates. Please provide the specifics (e.g. date, time, members present, etc.) of when the City Council had a closed meeting to discuss limiting its hiring of a new City Manager to internal candidates, and any and all documentation pertaining to the closed meeting.”

Answer: On March 18, 2024, a closed meeting was held and Council formally decided to limit its search scope to internal candidates. The meeting began at 11:00 AM and concluded at 12:43 PM. The following persons were in attendance: Mayor Eric Enriquez (via Teams, left at 12:19 PM), Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores. Two staff members arrived at 11:30 AM, Jo Richards, Director of Human Resources, and J.C. Borrego, former Assistant Director of Human Resources. Please see attachment above.

**Request No. 10:** “Please provide an explanation of the City Council’s formal process to hiring and firing a city manager and provide any and all documentation that outlines this formal process.”

Answer: After consultation with the Director of Human Resources, there is no formalized process in

place solely for the hiring/firing process as it relates to the City Manager position. Instead, please refer to the Las Cruces City Charter, Sec. 2-170, which states:

“The manager shall be employed by a majority vote of the city council for an indefinite term and shall serve until his death, resignation or removal by the city council.”

(Code 1988, § 2-41; Ord. No. 2826, § I(Exh. A), 10-16-17)

**Request No. 11:** “In Request No. 2, the GCA asked the City Council to provide copies of any communications between Mr. Pili and any Council members about the decision to limit the new City Manager search to internal candidates. The City Council provided the following response:

‘Upon information and belief, and after the City’s Information Technology department conducted a search of relevant email accounts and text records, no such records exist.’

Please provide an explanation of the City Council’s formal process of record retention and provide a copy of the record retention policy the City Council is subject to.”

Answer: Attached please find a copy of the City of Las Cruces Retention Schedule, adopted June 17, 2019.

**Request No. 12:** “In Request No. 3, the GCA asked the City Council to provide evidence that its March 18, 2024, closed session was properly noticed per OMA’s requirements. In response, the City Council provided a screenshot of the timestamp when the agenda was properly introduced. Please provide a copy of the March 18, 2024, agenda.

Answer: Please see attachment above.

**Request No. 13:** “In Request No. 4, the GCA asked the City Council to explain why the City Council did not make the required statement by NMSA 1978, Sec. 10-15-1(J) until its April 1, 2024, regular meeting. City Council records show that the City Council held a work session on March 25, 2024. Please explain whether there was a quorum present at the March 25, 2024, work session, and provide an explanation on whether the City Council considers its work sessions as open meetings or closed meetings.

Answer: Yes, there was a quorum present at the March 25, 2024 work session. At City Council work sessions, Council receives updates from City Departments on a variety of topics, and even sometimes from external organizations when there is a topic of interest. These meetings are akin to informational meetings, as there are no action items on the agenda(s). Nonetheless, the required statement did not take place until the April 1, 2024 regular meeting. This was due to an internal staff error, which has since been corrected.

In closing, please let me know if you need more information than what has been provided, or if you have questions and/or concerns about the materials I have provided. I would be happy to help in any way that I can. Hope you are doing well.

Best regards,

Brad Douglas

City Attorney

T: (575) 541-2128

Email: [bdouglas@lascruces.gov](mailto:bdouglas@lascruces.gov)

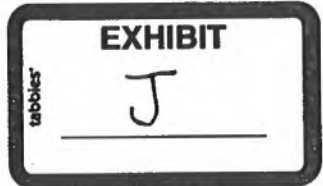
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**CLOSED MEETING STATEMENT**

THE LAS CRUCES CITY COUNCIL MET IN CLOSED SESSION AT  
11:00 A.M./P.M. March 18, 2024. THE FOLLOWING MEMBERS WERE IN  
ATTENDANCE:

MAYOR ERIC ENRIQUEZ *via teams, left at 12:19 pm*  
COUNCILOR CASSIE MCCLURE  
COUNCILOR WILLIAM MATTIACE  
COUNCILOR BECKI GRAHAM  
COUNCILOR JOHANA BENCOMO  
COUNCILOR BECKY CORRAN  
COUNCILOR YVONNE FLORES

STAFF: *11:30 am*

\_\_\_\_\_  
*Jo Richards*  
\_\_\_\_\_  
*JC Barrego*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE MEETING ADJOURNED AT 12:43 A.M./P.M.

**STATEMENT FOR THE RECORD:**

THE LAS CRUCES CITY COUNCIL MET IN CLOSED SESSION AND ONLY  
DISCUSSED THOSE LIMITED ITEMS AS STATED IN THE POSTED NOTICE.

The purpose of the Closed Meeting is:

1. To discuss limited personnel matters regarding the hiring of the City Manager, which is closed pursuant to NMSA 1978, Section 10-15-1H(2).

