

JOHN F. COOK
MAYOR



CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSIE BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
CARL L. ROBINSON, DISTRICT 4
MICHIEL R. NOE, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
CORTNEY CARLISLE NILAND, DISTRICT 8

JOYCE WILSON
CITY MANAGER

REGULAR COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
January 17, 2012
8:30 A.M.

The City Council met in regular session at the above place and date. Meeting was called to order at 8:31 a.m. Mayor John F. Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Emma Acosta, Carl Robinson, Michiel R. Noe, and Cortney Carlisle Niland. Late arrivals: Eddie Holguin, Jr. at 8:35 a.m., Susannah M. Byrd at 8:36 a.m. and Steve Ortega at 9:30 a.m. The invocation was given by Police Chaplain Clift Barnes, followed by the Pledge of Allegiance to the Flag of the United States of America.

.....
CALL TO THE PUBLIC – PUBLIC COMMENT

This time is reserved for members of the public who would like to address the City Council on items that are not on the City Council Agenda.

A sign-up form is available on line at https://www.elpasotexas.gov/muni_clerk/contact_public.asp for those who wish to sign up in advance of the meeting date and a sign-up form is available outside the City Council Chambers at the City Clerk table for those who wish to sign up on the day of the meeting.

Requests to speak must be received by 8:30 a.m. on the date of the meeting.

30 Minutes total is allotted for speakers.

Three to five minutes may be allowed for each speaker.

The following members of the public commented:

1. Mr. Salvador Gomez
2. Mr. Richard Schecter
3. Ms. Lisa Turner
4. Mr. John Conwell

Ms. Joyce Wilson, City Manager, commented.

.....
CONSENT AGENDA

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd, and unanimously carried to **APPROVE, AS REVISED**, all matters listed under the Consent Agenda unless otherwise noted. (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {*}).

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Ortega

.....
1. APPROVAL OF MINUTES

*Motion made, seconded, and unanimously carried to **APPROVE** the Minutes for the Regular City Council Meeting of January 10, 2012.

.....
2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

NO ACTION was taken on this item.

.....
3A – 3J. INTRODUCTIONS

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Niland, and carried that the following Ordinances, having been introduced pursuant to Section 3.9 of the El Paso City Charter, be **ADVERTISED** for public hearing:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin and Niland
NAYS: None
NOT PRESENT FOR THE VOTE: Representative Ortega

- 3A.** An Ordinance changing the zoning of a portion of Lot 1, Gateway Estates, El Paso County, Texas, as filed and recorded in Volume 41, page 13b, Plat records of El Paso County, Texas and a portion of the rights-of-way of Windermere Avenue, Brandywine Road, and Joe Battle Boulevard from R-F (Ranch and Farm) to C-3 (Commercial), and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: east of Joe Battle Boulevard and south of Windermere Avenue. Applicant: River Oaks Properties, Ltd. PZRZ11-00034
- 3B.** An Ordinance changing the zoning of a portion of Tract 1, Section 35, Block 79, Township 2, Texas and Pacific Railroad Surveys, El Paso County, Texas, and a portion of the rights-of-way of Montana Avenue and Zaragoza Road from R-F (Ranch and Farm) to C-4 (Commercial), and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: north of Zaragoza Road and south of Montana Avenue. Applicant: River Oaks Properties, Ltd. PZRZ11-00045
- 3C.** An Ordinance changing the zoning of all of Tract 1, Section 38, Block 79, Township 2, Texas and Pacific Railroad Surveys, El Paso County, Texas, and a portion of the right-of-way of Edgemere Boulevard and Zaragoza Road from R-F (Ranch and Farm) to C-3 (Commercial), and imposing a condition. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: north of Zaragoza Road and south of Edgemere Boulevard. Applicant: River Oaks Properties, Ltd. PZRZ11-00041
- 3D.** An Ordinance annexing the following real property described as a portion of Lot 1, Gateway Estates, El Paso County, Texas, as filed and recorded in Volume 41, page 13b, Plat records of El Paso County, Texas and a portion of the rights-of-way of Windermere Avenue, Brandywine Road and Joe Battle Boulevard. Subject Property: east of Joe Battle Boulevard and south of Windermere Avenue, Property Owner: River Oaks Properties, Ltd. AN08-004 (SUB08-00092)
- 3E.** An Ordinance annexing the following real property described as a portion of Tract 1, Section 35, Block 79, Township 2, Texas and Pacific Railroad Surveys, El Paso County, Texas, and a portion of the rights-of-way of Montana Avenue, (U.S. Hwy 62-180), and Zaragoza Road. Subject Property: north of Zaragoza Road and south of Montana Avenue, Property Owner: River Oaks Properties, Ltd. AN08-006 (SUB08-00094)

- 3F. An Ordinance annexing the following real property described as all of Tract 1, Section 38, Block 79, Township 2, Texas and Pacific Railroad Surveys, El Paso County, Texas, and a portion of the rights-of-way of Edgemere Boulevard and Zaragoza Road (F.M. 659). Subject Property: northwest of Zaragoza Road and south of Edgemere Boulevard, Property Owner: River Oaks Properties, Ltd. AN08-008 (SUB08-00096)
- 3G. An Ordinance changing the zoning of a portion of Nellie D. Mundy Survey 241, City of El Paso, El Paso County, Texas from R-3 (Residential) to C-3 (Commercial). The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 6380 Berringer Street. Applicant: TGK Artcraft, LLC. PZRZ11-00046
- 3H. An Ordinance changing the zoning of a portion of Tract 20-C, J.L. Johannsen Survey No. 185, City of El Paso, El Paso County, Texas from R-3 (Residential) to C-4 (Commercial). The penalty is as provided for in chapter 20.24 of the El Paso City Code. Subject Property: 6010 Doniphan Drive. Applicant: Warren M. and Theresa F. Pulner. PZRZ11-00054
- 3I. An Ordinance granting Special Permit No. PZST11-00015, to allow for infill development with reduced cumulative setbacks on the property described as Lot 5, Block 3, Emerald Valley Estates Replat A, City of El Paso, El Paso County, Texas, pursuant to Section 20.10.280 Infill Development of the El Paso City Code. The penalty being as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 5520 Milray Drive. Property Owner: Luis Villareal. PZST11-00015
- 3J. An Ordinance providing for a one hundred per cent reduction of certain fees specified in Title 18, Title 19, and Title 20 of the El Paso City Code for a period of ten years for property development located in the Downtown 2015 Plan Area

PUBLIC HEARING WILL BE HELD ON FEBRUARY 7, 2012, FOR ITEMS 3A –3J

.....
4A1. and 4A2 TAKEN TOGETHER

4A1.

ORDINANCE 17704

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF ALL OF NORTH HILLS UNIT EIGHT, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-5/SC/C (RESIDENTIAL/SPECIAL CONTRACT/CONDITION) TO R-MU (RESIDENTIAL MIXED USE). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. SUBJECT PROPERTY: NORTH OF MARCUS URIBE DRIVE AND EAST OF MARTIN L. KING JR. DRIVE. PROPERTY OWNER: NORTH HILLS HOUSING I, LP. PZRZ11-00049**

4A2.

ORDINANCE 17705

The City Clerk read an Ordinance entitled: **AN ORDINANCE RELEASING ALL CONDITIONS PLACED ON PROPERTY BY ORDINANCE NO. 8953 AND ORDINANCE NO. 9647 WHICH CHANGED THE ZONING OF ALL OF NORTH HILLS UNIT EIGHT, CITY OF EL PASO, EL PASO COUNTY, TEXAS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. SUBJECT PROPERTY: NORTH OF MARCUS URIBE DRIVE AND EAST OF MARTIN L. KING JR. DRIVE. PROPERTY OWNER: NORTH HILLS HOUSING I, LP. PZCR11-00003**

Mr. Mathew McElroy, Deputy Director, Planning and Economic Development, presented a PowerPoint presentation (copy on file in City Clerk's office)

Representative Robinson commented.

Motion duly made by Representative Robinson, seconded by Representative Byrd, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Ortega

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

.....
4B1. and 4B2. TAKEN TOGETHER AND VOTED SEPERATELY

ORDINANCE 17706

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF LOTS 80 AND 81, SUNRISE ACRES NO. 2, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4 (RESIDENTIAL) TO R-MU (RESIDENTIAL-MIXED USE). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. SUBJECT PROPERTY: EAST OF MOUNT LATONA DRIVE AND NORTH OF ATLAS DRIVE. PROPERTY OWNER: ADOBE HACIENDAS, INC. PZRZ11-00039**

The following Citizens commented:

1. Ms. Mendosa, presented a PowerPoint presentation (copy on file in City Clerk's office)
2. Mr. Rogelio Hernandez
3. Ms. Maria Mondrano
4. Mr. Anestario Mendoza
5. Mr. John Conwell
6. Mr. Carter
7. Ms. Ofelia Padillo
8. Mr. Efrain Hernandez
9. Mr. Conrad Conde, Conde, Inc.

1ST MOTION

Motion made by Representative Byrd, seconded by Representative Niland and unanimously approved to **SUSPEND THE RULES** of Council to allow for additional speakers after the sign up period.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, and Niland

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Ortega

Motion duly made by Representative Byrd, seconded by Representative Acosta, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, and Niland
NAYS: None
ABSTAIN: Representative Ortega

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

.....
4B2.

ORDINANCE 17707

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF TRACTS 154 AND 155, SUNRISE ACRES NO. 2, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4 (RESIDENTIAL) TO R-MU (RESIDENTIAL-MIXED USE). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. SUBJECT PROPERTY: EAST OF MOUNT LATONA DRIVE AND NORTH OF VULCAN DRIVE. PROPERTY OWNER: ADOBE HACIENDAS, INC. PZRZ11-00040**

Mayor Cook commented.

Motion duly made by Representative Byrd, seconded by Representative Acosta, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland
NAYS: None
ABSTAIN: Representative Holguin

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

.....
4C1.

ORDINANCE 17708

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A SPECIAL PRIVILEGE LICENSE TO MARY STILLINGER AND ENRIQUETA GODINEZ PERMITTING THE MAINTENANCE AND REPAIR OF A 2,199 SQUARE FOOT PORTION OF AN EXISTING MASONRY WALL WITH WROUGHT IRON FENCING WITHIN PORTIONS OF CITY RIGHT-OF-WAY ON FARRELL DRIVE BETWEEN CINDY DRIVE AND KATHY DRIVE AND KATHY DRIVE BETWEEN STEVENS ROAD AND FARRELL DRIVE ADJACENT TO THE PROPERTY LOCATED SOUTH OF AMERICAS AVENUE AND EAST OF KATHY DRIVE LEGALLY DESCRIBED AS LOTS 15 AND 16 RICHARD LEE SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS FOR A TERM OF FIVE YEARS.**

Ms. Mirian Spencer, Department of Transportation, presented a PowerPoint presentation (copy on file in City Clerk's office).

Mr. Mathew McElroy, Planning and Economic Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Mayor Cook and Representatives Robinson, Byrd, and Niland commented.

The following City Staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Ms. Ellen Smyth, Director of Environmental Services
- 3. Ms. Elaine Hengen, Senior Assistant City Attorney gave legal advice.

The following citizens commented:

- 1. Ms. Nancy Stoltz
- 2. Ms. Lucia Soria
- 3. Ms. Alla Severns
- 4. Ms. Nikki Stoltz
- 5. Ms. Barbara Candelaria
- 6. Ms. Wendy Dennis
- 7. Ms. Dale Manning
- 8. Ms. Sharon Stains
- 9. Mr. John Severns
- 10. Ms. Maria Dempsey
- 11. Mr. Bill Dempsey

Motion duly made by Representative Niland, seconded by Mayor Pro Tempore Lilly, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, and Niland

NAYS: None

ABSTAIN: Representative Holguin

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

.....
4C2.

ORDINANCE 17709

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF LOTS 15 AND 16, RICHARD LEE SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-F (RANCH AND FARM) TO R-MU (RESIDENTIAL –MIXED USE). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. SUBJECT PROPERTY: SOUTH OF AMERICAS AVENUE AND EAST OF KATHY ROAD. PROPERTY OWNER: MARY STILLINGER AND ENRIQUETA GODINEZ. PZRZ11-00031**

Motion duly made by Representative Niland, seconded by Mayor Pro Tempore Lilly, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Ortega, and Niland

NAYS: None

ABSTAIN: Representative Holguin

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

.....
5.

ORDINANCE 17710

The City Clerk read an Ordinance entitled: **AN ORDINANCE TO AMEND TITLE 12 (VEHICLES AND TRAFFIC), SECTION 12.44.280 (RESTRICTIONS ON PARKING IN RESIDENTIAL PARKING DISTRICTS) TO REVISE THE PROVISIONS REGARDING THE ISSUANCE OF PERMITS, AND CLARIFY THE EFFECT OF HOLDING A PERMIT AND THE PENALTIES FOR PARKING IN VIOLATION OF THE SECTION; THE PENALTY BEING AS PROVIDED IN SECTION 12.84.010 AND CHAPTER 12.85 OF THE EL PASO CITY CODE.**

Representatives Byrd and Robinson commented.

Mr. Daryl Cole, Director of Transportation Department, commented.

Mr. Keith Bennett, Department of Transportation, commented.

Motion duly made by Representative Robinson, seconded by Representative Niland, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega, and Niland
NAYS: None

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

.....
6.

ORDINANCE 17711

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO LORETTO INVESTMENT CORPORATION, TO OPERATE AND MAINTAIN A SOLID WASTE COLLECTION AND HAULER SERVICE WITHIN THE CITY OF EL PASO SUBJECT TO THE TERMS AND CONDITIONS DESCRIBED HEREIN. THE PENALTY AS PROVIDED IN SECTION 9.04.630 OF THE EL PASO CITY CODE.**

Motion duly made by Representative Acosta, seconded by Representative Byrd, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega, and Niland
NAYS: None

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same are hereby **ADOPTED**.

.....
7A. MAYOR AND COUNCIL

Motion made by Representative Niland, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **DIRECT** the City Manager to review the Open Space Advisory Board and its operations and authority, as listed on the agenda, but not limited to that listing; then to present the recommendations to the full Council for consideration.

Mayor Cook and Representatives Byrd, Lilly, Ortega, Acosta, Noe, and Niland commented.

Ms. Joyce Wilson, City Manager, commented.

Mr. Mathew McElroy, Deputy Director, Planning and Economic Development, commented.

The following members of the public commented:

1. Ms. Judy Ackerman
2. Ms. Merlyn Hyman
3. Mr. Richard Schechter
4. Ms. Lisa Turner
5. Mr. Charlie Wakeem, Open Spaces Advisory Board

.....
7B.

RESOLUTION

WHEREAS, on June 8, 2010, the City Council of the City of El Paso approved Retail Rates to be charged in the City of El Paso resulting from El Paso Electric Company's Statement of Intent to Increase Rates dated December 9, 2009, establishing the electric utility rates within the City of El Paso effective July 1, 2010;

WHEREAS, the City of El Paso maintains original jurisdiction over rates of El Paso Electric Company for rates charged within the City limits of the City of El Paso;

WHEREAS, on November 16, 2011, El Paso Electric Company filed with the City of El Paso an Application for a Revision to Its Rate Schedule 11-TOU, Time of Use Municipal Pumping Service, in order to change the applicability provision to make it clear that it applies to water and wastewater treatment by qualified customers;

WHEREAS, the Proposed change to Rate Schedule 11-TOU provides no increases and to revenues to EPE and no changes in changes to any customer;

WHEREAS, El Paso Electric Company notified each customer taking service usage Rate Schedule 11 by mail on or about December 1, 2011;

WHEREAS, El Paso Electric Company has requested that the El Paso City Council approve the Rate; and

WHEREAS, the City Council finds the Rate to be just and reasonable and that approval of these rate changes will not adversely affect any other customer classes or rates.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

1. El Paso Electric is hereby authorized to implement revised Rate Schedule 11-TOU, attached as Exhibit A, effective on approval of this resolution.

- 2. Nothing in this Resolution or approval shall operate or be construed to be a precedent or approval of any of the concepts contained in the Rider including the implementation date, or effective date of the Rider in any other circumstance.

Representatives Byrd and Niland commented.

Mr. Norman Gordon, Outside Bond Counsel, commented.

Motion made by Representative Byrd, seconded by Representative Robinson, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Lilly, Byrd, Acosta, Robinson, Noe, Holguin, Ortega and Niland

NAYS: None

.....
Motion made by Representative Robinson, seconded by Representative Byrd, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 11:42 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.076 to discuss any of the following:

- Section 551.071 CONSULTATION WITH ATTORNEY
- Section 551.072 DELIBERATION REGARDING REAL PROPERTY
- Section 551.073 DELIBERATION REGARDING PROSPECTIVE GIFTS
- Section 551.074 PERSONNEL MATTERS
- Section 551.076 DELIBERATION REGARDING SECURITY DEVICES
- Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

Discussion and action on the Executive Session items on the Regular City Council Agenda:

Motion made by Representative Acosta, seconded by Mayor Pro Tempore Lilly, and unanimously carried to adjourn the Executive Session at 12:31 p.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

.....
EX1. Petition of El Paso Electric Company for Review of City of El Paso's Rate Resolutions and Request for Expedited Relief before the Public Utility Commission of Texas, Docket Nos. 39868 and 39924. (551.071)

NO ACTION was taken on this item.

.....
EX2. Patriot Place, Ltd., Bankruptcy Case No. 11-31024-hcm. (551.071)

NO ACTION was taken on this item.

.....
EX3. Application of El Paso Electric Company to Amend its Certificate of Convenience and Necessity for Five Solar Power Generation Projects, Public Utility Commission of Texas Docket 39973 (551.071)

Motion made Mayor Pro Tempore Lilly, seconded by Representative Acosta and carried that the City Attorney be authorized to file a Motion of Intervention in the Application of El Paso Electric Company to amend its Certificate of Convenience and Necessity for Five Solar Power Generation Projects, Public Utility Commission of Texas Docket No. 39973.

AYES: Representatives Lilly, Byrd, Acosta, Noe, Holguin, Ortega, and Niland

NAYS: Representative Robinson

.....
Motion made by Representative Robinson, seconded by Representative Ortega, and unanimously carried to
ADJOURN this meeting at 12:34 p.m.
.....

APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk