

JOHN F. COOK
MAYOR



JOYCE WILSON
CITY MANAGER

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

SPECIAL MEETING OF THE CITY COUNCIL MINUTES
COUNCIL CHAMBERS
February 26, 2013

The City Council met at the above place and date. Meeting was called to order at 11:57 a.m. Mayor Pro Tempore Ann Morgan Lilly present and presiding and the following Council Members answered roll call: Susannah M. Byrd, Emma Acosta, Carl Robinson, Michiel Noe, Eddie Holguin, Jr., Steve Ortega and Cortney Niland. Mayor John F. Cook requested to be excused.

1. Discussion and action regarding the Resolution dated June 26, 2012, which authorized the City Manager to undertake certain preliminary actions with respect to the downtown ballpark.

RESOLUTION REPEALING PREVIOUSLY ADOPTED RESOLUTION OF CITY COUNCIL DATED JUNE 26, 2012, AUTHORIZING THE CITY MANAGER TO: SIGN A TERM SHEET WITH MOUNTAIN STAR SPORTS GROUP, LLC; COMPLETE PLANS TO MAKE CITY HALL SITE AVAILABLE FOR REDEVELOPMENT; TERMINATE LEASES; EXECUTE PLANS FOR RELOCATION OF CITY HALL; FINALIZE A FINANCING PLAN; AND NEGOTIATE THE CONTRACT FOR THE CONSTRUCTION, OPERATIONS AND MAINTENANCE OF THE BALLPARK

WHEREAS, the El Paso City Council adopted a Resolution on June 26, 2012 (a copy of which is attached as Exhibit "A" and fully incorporated herein) for the purpose of authorizing the City Manager to commence the process to plan for and construct a ballpark in downtown El Paso;

WHEREAS, said resolution will hereafter be referred to as the "Preliminary Planning Resolution";

WHEREAS, on August 9, 2012 a group of citizens submitted a petition (a copy of the first page is attached as Exhibit "B") to the City Clerk urging the adoption of an ordinance (hereinafter referred to as the "Petitioner's Ordinance") for the purpose of repealing the Preliminary Planning Resolution;

WHEREAS, the Petitioner's Ordinance was first presented to City Council for consideration on September 11, 2012 and December 4, 2012 and a majority of council voted not to adopt the Petitioner's Ordinance;

WHEREAS, the Petitioner's Ordinance was resubmitted to the City Council on February 11, 2013 with a request that it be placed on the ballot for the May 11, 2013 election for consideration of the voters;

WHEREAS, a majority of City Council directed that the matter move forward with the process to place an item on the ballot, which requires introduction of an ordinance, and City Council action at a subsequent meeting, pursuant to Article 3.11 of the City Charter.

NOW THEREFORE, AFTER DULY CONSIDERING THE MATTER, THE CITY COUNCIL OF THE CITY OF EL PASO MAKES THE FOLLOWING FINDINGS AND RESOLVES AS STATED BELOW;

FINDINGS

1. The purpose of the Preliminary Planning Resolution granted City staff specific authority and direction to prepare and develop plans, documents and actions for the construction of the ballpark on the City Hall site, so that the City Council and the public could consider them, and take action on the particular transactions and decisions.
2. The City Council expected there would be numerous subsequent actions necessary to execute the plans and to authorize the execution of contracts and expenditure of funds, and those actions have since been considered and approved by the City Council. Binding legal agreements were created, superseding the Preliminary Planning Resolution.
3. The voters approved the Venue Project, pursuant to Chapter 334 of the Local Government Code, at the election on November 6, 2012. The voters of the City of El Paso, by a 60% majority, specifically authorized the City Council to develop, construct and finance the ballpark as a Venue Project and the City Council has an obligation to execute and deliver the project as approved by the voters and in accordance with agreements otherwise authorized by the City Council.
4. The City Council has also granted authority and approved numerous contracts and expenditures as part of the "Project Plan" to advance the Ballpark project. Some of the most significant subsequent actions are listed on Exhibit "C" attached hereto and incorporated herein by reference.
5. Each of the actions contemplated by the Terms and Negotiation Resolution has been completed and implemented, and subsequent actions have superseded or replaced any action taken thereunder. A number of the actions finally approved and executed created contractual rights that cannot be reversed or revoked, including the Lease Agreement and Development Agreement approved by City Council on September 18, 2012 (which approval was granted by separate resolution and ordinance).
6. Chapter 3.11 of The El Paso City Charter grants the voters the right to initiative but not general referendum and the Petitioner's Ordinance is more in the nature of a referendum and therefore not appropriate under the Charter.
7. Repealing the Preliminary Planning Resolution will not modify or repeal any action subsequently approved by the City Council or the voters, and will not prevent the demolition of City Hall, whether the repeal is the result of current City Council action or the Petitioner's Ordinance.

REPEALING ACTION

By adopting this Resolution, the City Council hereby repeals the Preliminary Planning Resolution; provided however, the City Council expressly states that this action shall in no way invalidate any actions by the City Manager, City Council or City staff taken in furtherance of the plan to relocate City Hall or the demolition of City Hall nor shall such repeal affect any subsequent City resolution, ordinance or other authority authorizing specific aspects of the ballpark or City Hall relocation or shall it be deemed to be an attempt to repeal authority to sign or invalidate contracts signed with Mountain Star Sports, LLC. or any contractors or other third parties which have been signed in connection with the ballpark construction project. The City Council does not intend for this action to delay the project in any manner and the City Manager should continue with current plans with all due speed and diligence. Even though the Petitioner's Ordinance is more in the nature of a referendum than an initiative and therefore is not effective under the Charter, by repealing the Preliminary Planning Resolution the City Council has affected the change requested by the

petitioners in the Petitioner’s Ordinance without the need for approving an ordinance or placing the matter on the ballot.

Representatives Byrd, Acosta, and Holguin commented.

Mr. Lowell Denton, outside counsel, gave legal advice.

The following members of the public commented:

- 1. Mr. Salvador Gomez
- 2. Mr. David Ochoa

1ST MOTION

Motion made by Representative Byrd, seconded by Representative Robinson, and unanimously carried to **SUSPEND THE RULES OF ORDER** to allow additional speakers to address the Council after the signup period.

2ND AND FINAL MOTION

Motion made by Representative Niland, seconded by Representative Byrd, and carried to **APPROVE** the repeal of Resolution dated June 26, 2012 which authorized the City Manager to undertake certain preliminary actions with respect to the downtown ballpark.

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

NAYS: Representatives Acosta, Robinson, and Holguin

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Motion made by Representative Byrd, seconded by Representative Ortega, and unanimously carried to **ADJOURN** this meeting at 12:35 p. m.

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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk