

JOHN F. COOK  
MAYOR



JOYCE WILSON  
CITY MANAGER

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

REGULAR COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
April 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 8:34 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, Steve Ortega, and Cortney Carlisle Niland. Late arrival: Susannah M. Byrd at 8:37 a.m. Absent: Eddie Holguin, Jr. The invocation was given by CIMA Chaplain Carlos Clugy-Soto, followed by the Pledge of Allegiance to the Flag of the United States of America.

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**MAYOR'S PROCLAMATIONS**

1. **Drowning Prevention Week**
2. **Global Youth Service Day in El Paso**
3. **The Annual Sale of Buddy Poppies Week**
4. **Las Palmas Kidney Transplant Center-Organ Donor Awareness Month**
5. **The El Pasoans Fighting Hunger Food Bank's Million-Dollar Opportunity**

**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](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. Ms. Lisa Turner

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**CONSENT AGENDA**

Motion made by Representative Niland, seconded by Representative Ortega, 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, Noe, Ortega, and Niland  
NAYS: None  
ABSENT: Representative Holguin  
NOT PRESENT FOR THE VOTE: Representative Robinson

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**1. APPROVAL OF MINUTES**

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

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

\*Request to **EXCUSE** Representative Eddie Holguin, Jr.

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**3. INTRODUCTION**

Motion made by Representative Niland, seconded by Representative Byrd 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, Noe, Ortega and Niland  
NAYS: None  
ABSENT: Representative Holguin  
NOT PRESENT FOR THE VOTE: Representative Robinson

An Ordinance amending Title 5 (Business License and Permit Regulations), Chapter 5.13 (Security Alarm Systems), Sections 5.13.040 (Permit Term) and 5.13.050 (Permit Renewal) of the El Paso City Code to provide an option for a one year permit in certain cases, the penalty being as provided in Chapter 1.08 of the El Paso City Code.

**PUBLIC HEARING WILL BE HELD ON MAY 1, 2012, FOR ITEM 3**

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**4A.**

**ORDINANCE 17767**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.18 (SIGN REGULATIONS) SECTION 20.18.410 (R-F, R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, PR-II AND PMD DISTRICTS) OF THE EL PASO CITY CODE TO ADD SCHOOL AND CHURCH MONUMENT SIGNS AND REQUIREMENTS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

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

Mayor Cook and Representatives Byrd, Acosta, Robinson, Noe, and Ortega commented.

Ms. Joyce Wilson, City Manager, commented.

Mr. Rito Carrera, Chief Operating Officer, Ysleta Independent School, 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, and Ortega  
NAYS: None  
ABSENT: Representative Holguin  
NOT PRESENT FOR THE VOTE: Representative Niland

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

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**4B. AND 4C. TAKEN TOGETHER**

**4B.**

**ORDINANCE 17768**

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF A PORTION OF TRACT 3, BLOCK 10, BOOTHVILLE SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-F (RANCH AND FARM) TO C-2 (COMMERCIAL) AND IMPOSING A CONDITION. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. SUBJECT PROPERTY: 8623 NORTH LOOP DRIVE. APPLICANT: ASEO, INC. PZRZ11-00059**

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

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

**4C.**

**ORDINANCE 17769**

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST11-00017, TO ALLOW A BALLROOM ON THE PROPERTY DESCRIBED AS A PORTION OF TRACT 3, BLOCK 10, BOOTHVILLE SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS PURSUANT TO SECTION 20.04.320 OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. SUBJECT PROPERTY: 8623 NORTH LOOP DRIVE. PROPERTY OWNER: ASEO, INC. PZST11-00017**

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

Mayor Cook and Representative Ortega commented.

Motion duly made by Representative Ortega, 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, Ortega and Niland

NAYS: None  
ABSENT: 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**.

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4D.

**ORDINANCE 17770**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) CHAPTER 2.22 (OPEN SPACE ADVISORY BOARD), OF THE EL PASO CITY CODE, TO CLARIFY THE ROLE OF THE OPEN SPACE ADVISORY BOARD IN THE DEVELOPMENT REVIEW PROCESS AND TO AMEND STAFF SUPPORT FOR THE BOARD.**

Representative Acosta commented.

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  
ABSENT: 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**.

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5.

**ORDINANCE 17771**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.88 (SCHEDULES), SECTION 12.88.180 (NO STOPPING OR STANDING - TOW AWAY ZONE), OF THE EL PASO CITY CODE, TO AMEND PARAGRAPH 106 TO ALLOW FOR PARKING ON A PORTION OF PENDALE ROAD BETWEEN CASTNER DRIVE AND KASTRIN STREET, THE PENALTY BEING AS PROVIDED IN SECTION 12.84.010 OF THE EL PASO CITY CODE.**

Representative Ortega commented.

Motion duly made by Representative Ortega, 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  
ABSENT: 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**.

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6.

**ORDINANCE 17772**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.08 (EXCAVATIONS). SECTION 13.08.040 (FEES, BONDS AND INSURANCE), OF THE EL PASO CITY CODE, TO LOWER THE BOND AMOUNT REQUIRED FOR A PERMIT TO CUT OR EXCAVATE ANY STREET, ALLEY, SIDEWALK, PARKWAY OR DRIVEWAY WITHIN THE CITY RIGHT OF WAY FROM \$50,000 TO \$10,000, THE PENALTY BEING AS PROVIDED IN SECTION 13.08.140 (VIOLATION-PENALTIES) OF THE EL PASO CITY CODE.**

Mayor Cook commented.

Mr. R. Alan Shubert, City Engineer, commented.

Ms. Lisa Turner, Citizen, commented.

Motion duly made by Representative Byrd, 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, Ortega and Niland
- NAYS: None
- ABSENT: 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**.

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**7A. AND 7B. TAKEN TOGETHER**

**7A.**

**ORDINANCE 17773**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), OF THE EL PASO CITY CODE, BY AMENDING CHAPTER 2.38 (BUILDING AND STANDARDS COMMISSION) IN ITS ENTIRETY REGARDING THE CREATION AND AUTHORITY OF THE BUILDING AND STANDARDS COMMISSION; AND ESTABLISHING THE PROCESS FOR THE CONDUCT OF ADMINISTRATIVE HEARINGS AND APPEALS OF VACANT BUILDING REGISTRATION DENIALS OR REVOCATIONS BY THE COMMISSION; THE PENALTY IS AS PROVIDED IN SECTION 2.38.080 OF THE EL PASO CITY CODE.**

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

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:

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

7B.

**ORDINANCE 17774**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), OF THE EL PASO CITY CODE, BY CREATING CHAPTER 18.42 (DANGEROUS STRUCTURES), TO ESTABLISH EMERGENCY AUTHORITY FOR THE SECURING OF A DANGEROUS STRUCTURE BEFORE A HEARING; AND TO PROVIDE FOR THE RECOVERY OF AND FILING OF A LIEN FOR THE COSTS AND EXPENSES INCURRED BY THE CITY.**

Ms. Laura Gordon, Deputy City Attorney, presented a PowerPoint presentation (copy on file in City Clerk's office) and gave legal advice.

Representatives Lilly, Acosta, Robinson, Noe, and Ortega commented.

Ms. Joyce Wilson, City Manager, commented.

Ms. Ellen Smyth, Director, Environmental Services, commented.

Mr. Robert Levy, Citizen, commented.

Mr. Bill Stern, Code Compliance, 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, Ortega and Niland

NAYS: None

ABSENT: 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**.

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**8. AND 9. TAKEN TOGETHER**

8.

**ORDINANCE 17775**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT OF SALE AND ANY OTHER NECESSARY DOCUMENTS BETWEEN THE CITY OF EL PASO AND PAISANO HOUSING REDEVELOPMENT CORPORATION WHICH WILL ALLOW THE CITY TO CONVEY TRACTS 7-K, 7-K-1, 7-L-1-A, AND 7-L-1-B, BLOCK 35, YSLETA GRANT, IN THE CITY OF EL PASO, EL PASO COUNTY, TEXAS (LOCATED NEAR THE INTERSECTION OF ELVIN WAY AND INDEPENDENCE DRIVE), TO PAISANO HOUSING REDEVELOPMENT CORPORATION.**

Mr. William Lilly, Director, Community and Human Development, commented.

Motion duly made by Representative Ortega, 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, Robinson, Noe, Ortega and Niland  
NAYS: None  
ABSENT: Representative Holguin  
NOT PRESENT FOR THE VOTE: Representatives Byrd and Acosta

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

9.

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the following affordable rental housing development is approved for a funding commitment, as recommended by the Director of Community and Human Development, as listed below:

Project Name: Paisano Housing Redevelopment Corporation  
Project Type: Construction of 15 Rental Units  
Project Address: Tracts 7-K, 7-K-1, 7-L-1-A, 7-L-1-B, Block 35, Ysleta  
Grant (Elvin Way/Independence Drive) (79907)  
Project Amount: \$1,700,000.00  
District: 6

That the City Manager be authorized to sign a Neighborhood Stabilization Program (NSP) Development Agreement by and between the City of El Paso and Paisano Housing Redevelopment Corporation, as well as any related contract documents necessary to effectuate the award and to secure and protect the City's lien interest, upon the recommendation of the Director of Community and Human Development and the approval of the City Attorney's Office.

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

Motion made by Representative Ortega, seconded by Representative Niland, and unanimously carried to **APPROVE** the Resolution.

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**10. MAYOR AND COUNCIL**

\*Motion made, seconded, and unanimously carried to and unanimously carried to **DELETE** the discussion and action to direct the City Manager to fix the drainage retention wall located on 11536 James Grant Dr.  
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11.

## RESOLUTION

**WHEREAS**, El Paso Electric Company, distributes electric power within the City Limits of the City of El Paso pursuant to a 25-year franchise granted to El Paso Electric Company dated as of July 15, 2005, and is an electric utility, and

**WHEREAS**, El Paso Electric Company (“Company” or “EPE”), is a regulated utility subject to the exclusive original jurisdiction of the City of El Paso (“City”) for rates, services and operations within the City, and

**WHEREAS**, in 2011 the City Council of the City reviewed the base rates then being charged by EPE from customers within the City in accordance with the provisions of Texas Utilities Code § 36.051; and

**WHEREAS**, the City Council determined that it had reason to believe that the base rates being collected by EPE from customers within the City resulted in the Company receiving a level of revenues that was greater than needed to provide a reasonable opportunity to earn a reasonable return on the invested capital used and useful in rendering utility service to the public above its reasonable and necessary operating expenses, as provided in Texas Utilities Code Sections 36.003 and 36.051, thus rendering such rates unreasonable; and

**WHEREAS**, pursuant to the City Charter and the Texas Utilities Code § 36.151, the City Council determined that an inquiry should proceed to determine whether the rates being charged by EPE for service within the City are just and reasonable; and

**WHEREAS**, on October 4, 2011, pursuant to Texas Utilities Code §36.151 the City Council of the City of El Paso adopted a resolution directing EPE to Show Cause why its base rates for electric service in the City of El Paso should not be lowered, and ordering EPE to file a rate-filing package with the City of El Paso no later than February 1, 2012 pursuant to Texas Utilities Code §36.153; and

**WHEREAS**, on October 25, 2011, the City Council held a public hearing concerning the City’s proposal to establish interim temporary rates for EPE pending the City’s review of the rate-filing package ordered to be filed by February 1, 2012; and

**WHEREAS**, pursuant to Texas Utilities Code §36.155 by resolution dated November 15, 2011, the City Council set the then existing rates of EPE for electric service within the City of El Paso as temporary rates pending the decision to be based on the filing package to be filed by the Company on February 1; and

**WHEREAS**, upon appeal by EPE to the Public Utility Commission of Texas (“PUCT”) of the City’s Show Cause Resolution dated October 4, 2011 EPE, the PUCT by order dated January 23, 2012, determined that it had no jurisdiction over EPE’s appeals and denied relief to EPE, thereby appropriately allowing the City to exercise its original jurisdiction over EPE’s rates and services; and

**WHEREAS**, on January 10, 2012, after EPE filed a Motion to Withdraw its Appeal of the Resolution Setting Temporary rates, the PUCT dismissed EPE’s appeal of that Resolution, and

**WHEREAS**, on February 1, 2012, EPE filed a document stated to be the response to the City’s Show Cause Resolution and also filed a Statement of Intent to increase rates within the City of El Paso based upon an increase of \$26.255 million for Texas Jurisdictional Customers, said rate increase specified to be effective March 7, 2012; and

**WHEREAS**, on February 1, 2012, EPE filed an identical Statement of Intent to increase rates with the PUCT of Texas to be effective in areas outside the boundaries of the City of El Paso, over which the PUCT exercises original jurisdiction, said proceeding being docketed as PUCT Docket No. 40094; and

**WHEREAS**, on February 28, 2012, the City Council suspended the operation of the filings for 90 days from the effective date or the maximum allowed by law; and

**WHEREAS**, the EPE application at the PUCT included an Application to Reconcile Fuel Costs for the period July 1, 2009 through September 30, 2011; and

**WHEREAS** the City has filed a Motion to Intervene, and has been granted status as an intervenor in Docket No. 40094 at the PUCT; and

**WHEREAS**, the City Council held a public hearing on April 17, 2012, at which time the City Council heard a presentation from the City's counsel, the City's staff, and witnesses for EPE concerning a proposed settlement which would resolve the issues in the case pending at the City as well as the pending docket at the PUCT; and

**WHEREAS**, the proposed settlement calls for an overall annual decrease in rates for the Company of \$15,000,000 per annum based on EPE's existing rates as expressed in its February 1, 2012 filing with the City, effective with EPE's May 2012 billing month for bills rendered on and after May 1, 2012. The settlement is considered a "black box" settlement with no specific findings on issues except for the following provisions:

1. Effective May 1, 2012, EPE will use the depreciation rates attached as Exhibit 1 to this resolution which rates are the same as currently being charged, except that EPE will use the depreciation rates proposed for gas-fired generating units in the February 1, 2012 filing package, and the transmission and distribution depreciation rates approved by the New Mexico Public Regulation Commission in 2009 for EPE's use in New Mexico.
2. EPE shall accrue and deposit \$3.6 million annually on a Texas jurisdictional basis for Palo Verde Decommissioning Expense into the Palo Verde decommissioning funds. The amount of funding for Palo Verde decommissioning is for purposes of this case only and is subject to review and adjustment on a going-forward basis in future proceedings.
3. The revenue decrease authorized under the agreement shall be distributed among customer classes as set forth in Exhibit 2 to this Resolution. The revenue decrease includes an annual credit to residential customers in the amount of \$1.5 million, to be applied in the summer months as a partial offset to the summer rate differential.
4. The tariffs for those rates that are changed pursuant to the agreement shall be as attached in Exhibit 3 to this Resolution.
5. EPE's tariff shall include a new Economic Development Rate, which is included in as Rate Schedule 33 in Exhibit 3 to this Resolution.
6. EPE shall amortize total rate case expenses in this matter over a two-year period. EPE shall not request recovery of such rate case expenses from Texas ratepayers in any future proceeding.
7. Revenues collected after May 1, 2012, by EPE pursuant to the Power Factor Adjustment Charges in excess of an annual amount of \$250,000 shall be credited to fuel costs.

8. EPE shall withdraw its pending fuel reconciliation request and will file a fuel reconciliation request for the period beginning July 1, 2009 and ending no later than June 30, 2013.

**WHEREAS**, the City Council finds that the City's outside expenses incurred in connection with the Show Cause Proceeding, the Temporary Rate Order, and the February 1, 2012 filings by EPE with the City of El Paso and the PUCT in an amount not to exceed \$625,000 are reasonable, and

**WHEREAS**, the City Council finds that the distribution of the rate decrease among the various Texas Customer Classes as identified in Exhibit 2 to this Resolution is reasonable; and

**WHEREAS**, EPE has provided evidence that it has complied with the notice requirements of Texas Utilities Code § 36.103 by publication in the *El Paso Times* on February 10, 17, 24 and March 2, 2012 as well as by direct mail to customers; and

**WHEREAS**, the City Council finds that the tariffs attached to this Resolution as Exhibit 3 implement the settlement and the approved rate decrease; and

**WHEREAS**, the City Council finds that the base rate change proposed by El Paso Electric Company on February 1, 2012 should be denied, and that a rate decrease as identified herein is reasonable and will produce revenues that allow El Paso Electric Company a reasonable opportunity to earn a reasonable return on its invested capital used and useful to the public in providing electric service; and,

**WHEREAS**, the City Council determines that the City Attorney should be authorized to sign a Stipulation and Agreement in Docket No. 40094 at the Public Utility Commission of Texas implementing the provisions of the settlement agreement;

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, THAT:**

**SEC. 1.** The Rate Increase Request of El Paso Electric Company as requested by El Paso Electric Company on February 1, 2012, is denied, and a decrease of Fifteen Million Dollars (\$15,000,000) in (non-fuel) rates for the May 2012 billing month for bills rendered on or after May 1, 2012, is approved, with the decrease apportioned among the customer classes as provided in Exhibit 2 to this Resolution, which is incorporated herein for all purposes.

**SEC. 2.** The tariffs attached as Exhibit 3 to this Resolution are approved for the May 2012 billing month for bills rendered on or after May 1, 2012, for service within the City of El Paso.

**SEC. 3.** The City Council Resolution of November, 15, 2011, establishing temporary rates is rescinded and withdrawn on the effective date of this resolution.

**SEC. 4.** The Company is ordered to reimburse the City for the City's expenses in an amount not to exceed \$625,000, within thirty (30) days after invoice from the City.

**SEC. 5.** The City Attorney is authorized to sign a Stipulation and Agreement in Docket No. 40094 at the Public Utility Commission of Texas implementing the provisions of the Agreement.

**SEC. 6.** This resolution shall be effective upon its adoption.

**SEC. 7.** All relief requested by the Company within the original jurisdiction of the City of El Paso not granted herein is denied.

**SEC 8.** Nothing in this Resolution shall be construed to limit the power or authority of the City to exercise its original jurisdiction over the rates and services of El Paso Electric Company.

Mr. Norman Gordon, Outside Utility Council, presented a PowerPoint presentation (copy on file in City Clerk's office).

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

Mr. Tom Shockley, El Paso Electric Company, commented.

Mr. Leonard Bloom, Western Refining, commented.

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

NAYS: None

ABSENT: Representative Holguin

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The City Council Meeting was **RECESSED** at 10:56 a.m.

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The City Council Meeting was **RECONVENED** at 11:03 a.m.

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**12. COMMUNITY AND HUMAN DEVELOPMENT**

Motion made by Representative Acosta, seconded by Representative Robinson, and unanimously carried to **CLOSE THE PUBLIC HEARING** on City Council amending the City's 2010-2015 Consolidation Plan by adding an Emergency Solutions Grant (ESG), amending the 2011-2012 Annual Action Plan by adding ESG-funded activities, and approving the Proposed Budgets for those activities: (1) Homeless Prevention Activities – County of El Paso - \$160,000; (2) HMIS Services – El Paso Coalition for the Homeless - \$24,485; and (3) Administration Costs – City of El Paso - \$25,000.

Mr. William Lilly, Director Community and Human Development, commented.

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

NAYS: None

ABSENT: Representative Holguin

NOT PRSENT FOR THE VOTE: Representative Lilly

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**13**

**RESOLUTION**

**WHEREAS**, on June 22, 2010, the City Council for the City of El Paso adopted a five-year (2010-2015) Consolidated Plan that serves as a comprehensive housing affordability strategy, community development plan, and submission for funding programs that address homelessness and homelessness prevention such as the Emergency Shelter Program and Community Development Block Grant Public Services homeless programs which were submitted to the U.S. Department of Housing and Urban Development (HUD); and

**WHEREAS**, the City Council, based on the recommendation of the Director of the Community and Human Development Department and Department staff, now desires to amend the 2010-2015 Consolidated Plan by adding an Emergency Solutions Grant (ESG) Program component, to amend the 2011-2012 Annual Action Plan by adding ESG funded activities as specified in Attachment A, and to approve the Proposed Budgets for the ESG funded activities; and

**WHEREAS**, on March 7 and 9, 2012, the City of El Paso published in the El Paso Times and El Diario newspapers public notice to allow a 30-day public comment period regarding the proposed amendment to the 2010-2015 Consolidated Plan and the 2011-2012 Annual Action Plan and City Council has duly considered public comment, if any; and

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

1. That the 2010-2015 Consolidated Plan is hereby amended as follows:

Adding an Emergency Solutions Grant (ESG) component in the 2010-2015 Consolidated Plan, and amending its 2011-2012 Annual Action Plan to allow the City of El Paso to use funds specifically designated for ESG activities, as specified below and in Attachment A:

Homelessness Prevention Activities – County of El Paso - \$160,000;

HMIS Services – El Paso Coalition for the Homeless - \$24,485; and

Administration Costs – City of El Paso - \$25,000;

to assist individuals and families to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. **(All Districts).**

2. That the City Manager be authorized to sign and submit to the U.S. Department of Housing and Urban Development (HUD) Form SF-424, a Substantial Amendment to the 2010-2015 Consolidated Plan for the ESG Program (Attachment A), as part of the amended 2011-2012 Annual Action Plan, and related certifications contained therein.
3. That the City Manager be authorized to sign a Grant Agreement with HUD for the ESG grant covered by the City’s Annual Action Plan.
4. That the City Manager be authorized to take any actions necessary to accomplish the intent of this resolution and be authorized to sign any agreements or related documents for agency ESG activities upon approval by the City Attorney’s Office and Director of Community and Human Development Department.

Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **APPROVE** the Resolution.

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

NAYS: None

ABSENT: Representative Holguin

Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **APPROVE** the Resolution.

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Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 11:07 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

Discussion and action on the Executive Session items listed on the Agenda.

Motion made by Representative Ortega, seconded by Representative Byrd, and unanimously carried to adjourn the Executive Session at 12:18 p.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

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**EX1.** Application of El Paso Electric Company to Change Rates and Reconcile Fuel Costs, Public Utility Commission of Texas Docket 40094, SOAH Docket 473-12-4275 (551.071)

**NO ACTION** was taken on this item

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**EX2.** Patriot Place, Ltd. Bankruptcy Case No. 11-310224-hem (551.071)

Motion made Mayor Pro Tempore Lilly, seconded by Representative Acosta, and carried that outside counsel for the City of El Paso in consultation with the City Attorney be authorized settlement authority, to negotiate settlement agreement and sign all documents to resolve the dispute related to the bankruptcy case styled Patriot Place, Ltd. Bankruptcy Case No. 11-310224-hem. Additionally, that the City Manager is also authorized to process all necessary budget transfers in connection with this transaction, to include associated legal fees.

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

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**EX3.** Prospective downtown economic development project. (551.071 and 551.087)

**1<sup>st</sup> MOTION**

Motion made Mayor Pro Tempore Lilly, seconded by Representative Byrd and carried that the City Manager or her City Manager or her designee to continue to negotiate in connection with the proposed downtown economic development project and to present final documentation to the City Council for consideration upon the conclusion of the negotiations.

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

**2<sup>nd</sup> MOTION**

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd and carried that the City Manager Office be authorized to hire the firm of Fulbright & Jaworski, L.L.P. to provide consultant services in regard to a prospective downtown economic development project. This motion is intended to grant broad authority to take action necessary to address this matter, in consultation with the City Manager through outside counsel.

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

**3<sup>rd</sup> MOTION**

Motion made by Representative Ortega, seconded by Representative Byrd, and unanimously carried to **RECONSIDER** the item.

**4<sup>th</sup> MOTION**

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd and carried that the City Manager Office be authorized to hire the firm of Fulbright & Jaworski, L.L.P. to provide consultant services in regard to a prospective downtown economic development project. This motion is intended to grant broad authority to take action necessary to address this matter, in consultation with the City Manager through outside counsel.

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

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**EX4.** 215 N. Mesa, El Paso, Texas. (551.071 and 551.072)

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd and carried that the City Manager or her designee to negotiate with the owner of 215 N. Mesa to secure use of the building for City purposes and to present final documentation to the City Council for consideration upon the conclusion of the negotiations.

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

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Motion made by Representative Ortega, seconded by Representative Niland, and unanimously carried to **ADJOURN** this meeting at 12:22 p.m.  
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**APPROVED AS TO CONTENT:**

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Richarda Duffy Momsen, City Clerk