

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
May 1, 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: Susannah M. Byrd, Emma Acosta, Carl Robinson, Michiel R. Noe, Steve Ortega, and Cortney Carlisle Niland. Late arrival: Ann Morgan Lilly at 8:36 a.m. and Eddie Holguin, Jr. at 8:42 a.m. The invocation was given by, Police Chaplain Cliff Barnes, followed by the Pledge of Allegiance to the Flag of the United States of America.

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MAYOR'S PROCLAMATIONS

- 1. National Visiting Nurse Association Week**
- 2. Older Americans Awareness Month**
- 3. GenTX Day**
- 4. Opportunity Days in El Paso, Texas**
- 5. May Day – An El Paso CPR Training Event**

RECOGNITIONS

- 1. Jimmy Torres and Juan Varela – Highway Angels**
- 2. Elaine S. Hengen – Star on the Mountain Award**
- 3. Eric Shelton, Assistant Chief, El Paso Police Department**
- 4. Winners of the Recycle Right Video Contest**

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. Bobby Wilson
2. Mr. Luis Linggi
3. Mr. Dimitri Linggi

- 4. Mr. Mark Benitez
- 5. Mr. Salvador Gomez
- 6. Mr. Michael Patino

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CONSENT AGENDA

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Niland, 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, Ortega, and Niland
 NAYS: None

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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 24, 2012 and the Special City Council Meeting of April 18, 2012.

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2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

NO ACTION was taken on this item.

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3. BOARD RE-APPOINTMENT

*Motion made, seconded, and unanimously carried to **RE-APPOINT** Paula Villalobos-Jimenez to the Ethics Review Commission by Representative Emma Acosta, District 3.

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4A BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Isela Ocegueda to the Museums and Cultural Affairs Advisory Board by Representative Michiel R. Noe, District 5.

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4B. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Cesar Gomez to the Historic Landmark Commission by Representative Ann Morgan Lilly, District 1.

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INTRODUCTIONS 5A AND 5B. TAKEN TOGETHER

Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously 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, Ortega and Niland
 NAYS: None

- 5A.** An Ordinance amending the Final Project Plan and Final Reinvestment Zone Financing Plan for Tax Increment Reinvestment Zone Number Five, City of El Paso, Texas; adopting said amendments as required by Section 311.011(E) Texas Tax Code.

PUBLIC HEARING WILL BE HELD ON MAY 15, 2012, FOR ITEM 5A

5B. An Ordinance amending Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations), Section 20.10.080 (Animal facilities, animal kennel, animal training facility, veterinary treatment center, clinic or hospital), Appendix A (Table of Permissible Uses) of the El Paso City Code to allow Animal facilities, animal kennel, animal training facility, veterinary treatment center, clinic or hospital in M-1 (Light Manufacturing Zone District). The penalty is as provided for in Chapter 20.24 of the El Paso City Code

PUBLIC HEARING WILL BE HELD ON MAY 29, 2012, FOR ITEM 5B

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6A.

ORDINANCE 17776

The City Clerk read an Ordinance entitled: **ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.10 (SUPPLEMENTAL USE REGULATIONS) OF THE EL PASO CITY CODE, TO ADD A SECTION ESTABLISHING STANDARDS FOR AN ENVIRONMENTAL AND WILDLIFE RESEARCH CONSERVANCY OVERLAY. 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).

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, 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**.

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6B.

ORDINANCE 17777

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.22 (NONCONFORMING SITUATIONS), SECTION 20.22.030 (NONCONFORMING USES), SECTION 20.22.040 (NONCONFORMING STRUCTURES), AND SECTION 20.22.070 (REGISTRATION AND CERTIFICATE OF OCCUPANCY REQUIRED) OF THE EL PASO CITY CODE, TO REVISE THE REGISTRATION PROCEDURES FOR A NON-CONFORMING BUILDING OR USE. 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).

Representatives Robinson and Holguin 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, 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**.

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6C.

ORDINANCE 17778

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST12-00001, TO ALLOW FOR A PLANNED RESIDENTIAL DEVELOPMENT OVERLAY WITH REDUCED CUMULATIVE SETBACKS ON LOTS 4 THROUGH 24, BLOCK 36, SANDSTONE RANCH #8, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.270 (ZONING) OF THE EL PASO CITY CODE. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. PROPERTY OWNER: NORTHTOWNE VILLAGE JOINT VENTURE. SUBJECT PROPERTY: NORTH OF MARCUS URIBE DRIVE AND WEST OF SEAN HAGGERTY DRIVE. PZST12-00001**

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 Ortega
NAYS: None
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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6D. PLANNING AND ECONOMIC DEVELOPMENT

*Motion made, seconded, and unanimously carried to **DELETE** the public hearing on an Ordinance changing the zoning of Tracts 9A1, 9A1A and 9A2, Block 79, Section 32, Township 2, Texas and Pacific Railway Company Surveys, 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: south of Montana Avenue and west of Dominican Street. Property Owner: Acala Investments, LLC. PZRZ12-00001

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6E. PLANNING AND ECONOMIC DEVELOPMENT

*Motion made, seconded, and unanimously carried to **POSTPONE** four weeks the public hearing on an Ordinance granting Special Permit No. PZST11-00013, to allow for infill development with reduced lot width on the property described as all of Lots 21 and 20 except the westerly 3 feet of 20, Block 73D, Logan Heights Addition First Revised Plat, City of El Paso, El Paso County, Texas, pursuant to section 20.10.280 of the El Paso City Code. The Penalty being as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 3604 Keltner Avenue. Property Owner: Stone Nest LLC. PZST11-00013

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7.

ORDINANCE 17779

The City Clerk read an Ordinance entitled: **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.**

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

Ms. Joyce Wilson, City Manager, commented.

Assistant Police Chief Robert Feidner commented.

Ms. Julie Baldwin, Public Information Officer for Engineering and Construction Management, commented.

Motion duly made by Representative Niland, seconded by Representative Noe, 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: 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**.

8.

ORDINANCE 17780

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.88 (SCHEDULES), SECTION 12.88.010 (SCHEDULE I - ONE-WAY STREETS) OF THE EL PASO CITY CODE, TO DELETE SAN ANTONIO AVENUE FROM EL PASO STREET TO FLORENCE STREET, THE PENALTY BEING AS PROVIDED IN SECTION 12.84.010 AND CHAPTER 12.85 OF THE EL PASO CITY CODE.**

Mayor Cook and Representatives Ortega and Niland commented.

Ms. Joyce Wilson, City Manager, commented.

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

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9A. THROUGH 9C TAKEN TOGETHER

9A.

ORDINANCE 17781

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A FRANCHISE TO LIFE AMBULANCE SERVICE INC. TO OPERATE A NON-EMERGENCY AMBULANCE TRANSFER SERVICE.**

9B.

ORDINANCE 17782

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A FRANCHISE TO ELITE MEDICAL TRANSPORT TO OPERATE A NON-EMERGENCY AMBULANCE TRANSFER SERVICE.**

9C.

ORDINANCE 17783

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A FRANCHISE TO DOMINION AMBULANCE, LLC TO OPERATE A NON-EMERGENCY AMBULANCE TRANSFER SERVICE.**

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

Fire Chief Otto Drozd commented.

Ms. Sylvia Firth, City Attorney, gave legal advice.

Motion duly made by Representative Byrd, seconded by Representative Noe, 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**.

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9D. FIRE

*Motion made, seconded, and unanimously carried to **POSTPONE** four weeks the public hearing on an Ordinance granting a franchise to American Medical Response Ambulance Service, Inc. to operate a non-emergency ambulance transfer service.

Representative Susie Byrd commented.

Fire Chief Otto Drozd commented.

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10A. MAYOR AND COUNCIL

*Motion made, seconded, and unanimously carried to **DELETE** the item that the City of El Paso strongly opposes the decision made by the Chancellor and requests that the Board of Regents reverse the Chancellor's decision and reinstate the Julio César Chávez, Jr. vs. Andy Lee fight scheduled to take place at the UTEP campus Sun Bowl Stadium on June 16, 2012.

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10B. MAYOR AND COUNCIL

Motion made by Representative Robinson, seconded by Representative Niland, and unanimously carried to **DENY** reducing the school districts' obligation to pay the correct percent of school zone flasher costs and **DIRECT** staff to come back with a proposal that the school districts pay 100% of the flashers.

Mr. Daryl Cole, Director, Department of Transportation, presented a PowerPoint presentation (copy on file in City Clerk's office).

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

Ms. Joyce Wilson, City Manager, commented.

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11. PLANNING AND ECONOMIC DEVELOPMENT

Motion made by Representative Noe, seconded by Representative Ortega, and carried to **APPROVE** the request from Ray Mancera, on behalf of Jose de la Torre, granting an exception with a finding of financial hardship from the prohibition of the sale of alcoholic beverages within three hundred feet of a daycare for the property located at 2921 George Dieter #F.

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

NAYS: Representative Robinson

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 Robinson commented.

Ms. Sylvia Firth, City Attorney, gave legal advice.

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12. ENVIRONMENTAL SERVICES

Motion made by Representative Byrd, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **ADOPT** a new goal to the Sustainability Plan with Department of Energy support.

NOT PRESENT FOR THE VOTE: Representative Robinson

Mr. Marty Howell, Sustainability Manager, presented a PowerPoint presentation (copy on file in City Clerk's office).

Mayor Cook and Representative Byrd commented.

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13. COMMUNITY AND HUMAN DEVELOPMENT

1st MOTION

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

2ND MOTION AND FINAL MOTION

Motion made by Representative Acosta, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **CLOSE** the Public Hearing on the adoption of the Proposed 2012-2013 Annual Action Plan Budgets for the

Community Development Block Grant (CDBG) 38th Year Program, the Emergency Solutions Grant (ESG) Program, the HOME Investment Partnerships (HOME) Program, and the Housing Opportunities for Persons with AIDS (HOPWA) Program

Mayor Cook and Representatives Byrd and Holguin commented.

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

The following members of the public commented:

- 1. Mr. Raul Chico A. Dominguez
- 2. Ms. Ana Duenez
- 3. Ms. Elva Villagran

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14.

RESOLUTION

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

- 1. That, having conducted a public hearing in order to receive public comment, the City Council hereby adopts the Proposed 2012-2013 Annual Action Plan Budgets for the Community Development Block Grant (CDBG) 38th Year Program, the Emergency Solutions Grant (ESG) Program, the HOME Investment Partnerships (HOME) Program, and the Housing Opportunities for Persons with AIDS (HOPWA) Program, all attached hereto as Exhibit "A"; and
- 2. That the City Council directs that the notice of availability, including the Proposed 2012-2013 Annual Action Plan Budgets for the CDBG, ESG, HOME and HOPWA Programs be published in the El Paso Times on Sunday, May 6, 2012, to provide the public with an opportunity to review the proposed 2012-2013 Annual Action Plan, including the Proposed Budgets, and submit comments to the Department of Community and Human Development. The deadline for submission of written comments will be 6:00 p.m., on Thursday, June 7, 2012. The City Council will conduct a public hearing in City Council Chambers during the regular City Council meeting on Tuesday, June 19, 2012, for the purpose of receiving comments from the public and adopting the Final 2012-2013 Annual Action Plan, including the 38th Year CDBG, and the ESG, HOME and HOPWA Budgets, for submission to the U.S. Department of Housing and Urban Development.

1ST MOTION

Motion made by Representative Byrd, seconded by Representative Acosta, and unanimously carried to **APPROVE** and request that City Staff consider swapping out Johnson Park and subtract the Salvation Army items from the vote.

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

2ND AND FINAL MOTION

Motion made by Representative Byrd, seconded by Representative Acosta and carried to **APPROVE** the Salvation Army budget.

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

ABSTAIN: Representative Robinson

Mayor Cook commented.

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15. CITY MANAGER’S UPDATE

1st MOTION

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd, and unanimously carried to **DIRECT** City Staff to work on the proposed changes to the Fire Code.

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Holguin

2nd AND FINAL MOTION

Motion made by Representative Byrd, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **DIRECT** City Staff to work on the proposed changes to the Building Code along with the clean sweep requirement.

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

NAYS: None

Fire Chief Otto Drozd presented a PowerPoint presentation (copy on file in City Clerk’s office).

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

The following City Staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. David Almonte, Deputy City Manager
- 3. Mr. Tom Maguire, Code Compliance
- 4. Mr. Bill Stern, Code Compliance
- 5. Ms. Sylvia Firth, City Attorney, gave legal advice.

Mr. Dennis Melonas, Central Business Association commented.

Ms. Providencia Velasquez, Historic Preservation Officer commented.

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ADD1. CITY MANAGER’S UPDATE

Motion made by Representative Noe, seconded by Representative Byrd, and unanimously carried to **APPROVE** terms that have been set out and sharing proceeds if ticket sales are more than \$2 million and **AUTHORIZE** the City Manager to sign the contract with these terms.

Mr. Bill Blaziek, General Manager, Convention and Visitors Bureau, presented a PowerPoint presentation (copy on file in City Clerk’s office).

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

Ms. Joyce Wilson, City Manager, commented.

Ms. Laura Gordon, Deputy City Attorney, gave legal advice

Mr. Lester Bedford, Top Rank Promotions, commented.

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Motion made by Representative Robinson, seconded by Representative Noe, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 1:07 p.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 listed on the Agenda.

Motion made by Representative Holguin, seconded by Representative Ortega, and unanimously carried to adjourn the Executive Session at 1:22 p.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

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

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EX1. Discussion and action on Cause No. 2011-1886, City of El Paso, Texas v. Currey Adkins Cook.

Motion made Mayor Pro Tempore Lilly, seconded by Representative Acosta, and carried that the City Manager for the City of El Paso and the City Attorney for the City of El Paso be authorized to sign a Tolling Agreement related to the lawsuit styled City of El Paso, Texas vs. Currey Adkins Cook; Cause No. 2012-1886.

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

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Motion made by Representative Robinson, seconded by Representative Acosta, and unanimously carried to **ADJOURN** this meeting at 1:23 p. m.

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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk