

JOE WARDY
MAYOR

JOYCE WILSON
CITY MANAGER



CITY COUNCIL

SUSAN AUSTIN
DISTRICT NO. 1

ROBERT A. CUSHING, JR.
DISTRICT NO. 2

JOSE ALEXANDRO LOZANO
DISTRICT NO. 3

JOHN F. COOK
DISTRICT NO. 4

PRESI ORTEGA, JR.
DISTRICT NO. 5

PAUL J. ESCOBAR
DISTRICT NO. 6

VIVIAN ROJAS
DISTRICT NO. 7

ANTHONY W. COBOS
DISTRICT NO. 8

REGULAR COUNCIL MEETING
COUNCIL CHAMBERS
MAY 10, 2005
9:00 A.M.

The City Council met in regular session at the above place and date. Meeting was called to order at 9:14 a.m. Mayor Joe Wardy present and presiding and the following Council Members answered roll call: Susan Austin, Robert A. Cushing, Jr., Jose Alexandro Lozano, John F. Cook, Presi Ortega, Jr., Paul J. Escobar, Vivian Rojas, and Anthony W. Cobos. Absent: None. Early Departure: Representative Cushing at 3:00 p.m. A moment of silence was observed, followed by the Pledge of Allegiance to the Flag of the United States of America.

MAYOR'S PROCLAMATIONS

1. **SEE AMERICA WEEK**
2. **EL PASO NALC NATIONAL FOOD DRIVE DAY**
3. **NATIONAL PUBLIC WORKS WEEK**

Motion made by Representative Cook, seconded by Representative Rojas and unanimously carried to **POSTPONE TWO (2)** weeks the speech presentation regarding the need for salary increases for City Representatives and the Mayor of the City of El Paso. [Anita Blair]

Motion made by Representative Austin, seconded by Representative Lozano and unanimously carried to **DELETE** the presentation of 2004 Annual Report and 2006-2010 5 year Strategic Plan. [Kathleen Mason, Executive Director of El Paso Zoological Society]

NO ACTION WAS TAKEN regarding the following item: Discussion and action to return all confiscated video game machines, cash, employee time cards, computer hard drives, merchandise, receipts and other documents that were confiscated by the E.P.P.D. on Thursday, April 28, 2005 to their owners; to allow the closed game rooms to reopen and the city provide specific guidelines for regulation ad operation in accordance with Texas Penal Code, Paragraph 47.01(4)(B). The game rooms represented are Moonlight Video, TMO Game Room, Sun Video Game Room, Wild Touch Game Room and Cielo Vista Game Room. [Thurman Reynolds]

Mayor Joe Wardy and Representatives Cook, Ortega, Cobos, Escobar, Lozano, Cushing, and Austin commented.

The following members of the public commented:

1. Mr. Thurman Reynolds
2. Ms. Theresa Eiden
3. Ms. Enedelia Garcia
4. Ms. Celia Decker
5. Mr. Rick Olivo, attorney representing Great Western Amusement and machine operators
6. Mr. Carl Robinson
7. Mr. Jaime Esparza, District Attorney

The following City staff members commented:

1. Ms. Lisa A. Elizondo, City Attorney
2. Mr. Ernie Rodriguez, Assistant City Attorney
3. Police Chief Richard Wiles

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 Motion made by Representative Ortega, seconded by Representative Escobar and unanimously carried to **RECESS** the City Council Meeting to discuss the Mass Transit Board Meeting at 10:30 a.m.

Representatives Rojas and Cobos were not present for the vote.

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 Motion made by Representative Cook, seconded by Representative Cobos and unanimously carried to **RECONVENE** the City Council Meeting from the Mass Transit Board Meeting at 10:33 a.m.

Representative Rojas was not present for the vote.

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 Motion made by Representative Cobos, seconded by Representative Cook 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 {*}).

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 *Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** the **MINUTES** for the Regular City Council Meeting of May 3, 2005.

RESOLUTION

WHEREAS, in accordance with Section 18.52.040 and Section 18.52.080 of the El Paso Municipal Code, the City Council of the City of El Paso, by Resolution dated the 13th day of January, 2004, after due notice and hearing, ordered MARIA AND NANCY RAMIREZ, record Owners of the hereinafter described property that the Buildings be secured within thirty (30) days and clean the premises of all weeds, trash, and debris all within thirty (30) days, and the Owners having failed after due notice to comply with such ORDER, any mortgagees, lienholders and other persons having an interest in the property have an additional ten (10) days to secure the Buildings and clean the premises of all trash, debris, and the mortgagees, lienholders and other persons having an interest in the property failed after due notice to comply with such ORDER, the Street Department of the City of El Paso has been ordered to proceed to secure the Buildings and clean the premises of all weeds, trash, and debris.

WHEREAS, the Director for Building Permitting and Inspections Department has reported the cost of doing such work in the amount hereinafter set forth;

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

1. That the City Council determines the actual cost of securing the Buildings and cleaning the premises of all weeds, trash and debris from the property, more particularly described as:

Lot 9, Block 17, Dolphin Terrace Unit 3, an Addition to the City of El Paso, El Paso County, Texas, according to the map thereof on File in Book 1, Page 49, Plat Record of El Paso County, Texas, municipally known and numbered as 5833 Porpoise Drive, El Paso, Texas, El Paso County, Texas,

to be \$1,485.80, performed by the Street Department of the City of El Paso, and \$2,610.35, performed by the City Attorney's Office and the City Clerk's Office, making a total of \$4,096.15. The City Council finds that the work was completed on the 8th day of February, 2005, and approves the costs.

2. That the City Council, in accordance with Texas Local Government Code §214.001(n), declares the above total amount of FOUR THOUSAND NINETY-SIX DOLLARS AND FIFTEEN CENTS (\$4,096.15) to be a lien on the above-described property.

3. That the City Clerk is directed to give notice of this lien by filing a copy of this Resolution for record with the County Clerk.

4. That all records of the City Clerk's Office relating to the proceeding against the above-described property are made a part of this Resolution by reference.

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***RESOLUTION**

WHEREAS, in accordance with Section 18.52.040 and Section 18.52.080 of the El Paso Municipal Code, the City Council of the City of El Paso, by Resolution dated the 18th day of February, 2003, after due notice and hearing, ordered MARIA C. SONORA AND ISABEL MEDINA, record Owners of the hereinafter described property that the Buildings be secured within thirty (30) days and clean the premises of all weeds, trash, and debris all within thirty (30) days, and the Owners having failed after due notice to comply with such ORDER, any mortgagees, lienholders and other persons having an interest in the property have an additional ten (10) days to secure the Buildings and clean the premises of all trash, debris, and the mortgagees, lienholders and other persons having an interest in the property failed after due notice to comply with such ORDER, the Street Department of the City of El Paso has been ordered to proceed to secure the Buildings and clean the premises of all weeds, trash, and debris.

WHEREAS, the Director for Building Permitting and Inspections Department has reported the cost of doing such work in the amount hereinafter set forth;

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

1. That the City Council determines the actual cost of securing the Buildings and cleaning the premises of all weeds, trash and debris from the property, more particularly described as:

Lots 1 through and 47 FT. ADJ on E, Block 73A, Logan Heights Subdivision, municipally known and numbered as 3737 Fred Wilson Road, El Paso, Texas, El Paso County, Texas,

to be \$2,064.36, performed by the Street Department of the City of El Paso, and \$1,433.80, performed by the City Attorney's Office and the City Clerk's Office, making a total of \$3,498.16. The City Council finds that the work was completed on the 18th day of February, 2005, and approves the costs.

2. That the City Council, in accordance with Texas Local Government Code §214.001(n), declares the above total amount of THREE THOUSAND FOUR HUNDRED NINETY-EIGHT DOLLARS AND SIXTEEN CENTS (\$3,498.16) to be a lien on the above-described property.

3. That the City Clerk is directed to give notice of this lien by filing a copy of this Resolution for record with the County Clerk.

4. That all records of the City Clerk's Office relating to the proceeding against the above-described property are made a part of this Resolution by reference.

.....
***RESOLUTION**

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

That the City Manager be authorized to sign an Acceptance of Responsibility Agreement by and between the **CITY OF EL PASO** and **CONTRACT FREIGHTER, INC.** for repairs to a concrete swale and erosion within the City's concrete lined drainage channel located within the Americas Ten Subdivision, El Paso, El Paso County, Texas.

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***RESOLUTION**

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

That the Classification and Compensation Plan shall be amended, as recommended by the Civil Service Commission. The class of **PUBLIC ARTS PROGRAM COORDINATOR** is hereby created as specified in the duties and responsibilities attached hereto. The Code is **5177**. The Grade is **PM 75**.

Ms. Lisa Turner, citizen, asked questions of Ms. Joyce Wilson, City Manager.

Mayor Joe Wardy commented.

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*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** the Staffing Table Change for Airport

Add 1.00 Airport Materials Specialist GS 16
Fund Source: 62620001-40101-62000

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*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** the Staffing Table Change for Building Permits and Inspections

Add 1.00 Plan Reviewer II GS 26
Delete 2.00 Plan Reviewer I GS 24
Fund Source: 36010116-01101-36000

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*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** the Staffing Table Change for Performing Arts & Culture

Add 1.00 Public Arts Program Coordinator PM 75
Fund Source: 55010303-15707-55000

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*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **DELETE** the board appointment of Daniel De La Haye to the Historic Landmark Commission by Representative Robert A. Cushing, Jr., District 2.
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*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPOINT** Margie Aguilar-Desrosiers to the Building and Standards Commission by Representative Vivian Rojas, District 7. In making this appointment, the City Council hereby finds that this appointment is necessary under Section 3.3 C 2 of the El Paso City Charter as the due process rights of citizens would otherwise be compromised based on the responsibilities and obligations that have been assigned by City ordinance to the Building and Standards Commission.

*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPOINT** Hector Zamora Jr. to the Building and Standards Commission by Representative Vivian Rojas, District 7. In making this appointment, the City Council hereby finds that this appointment is necessary under Section 3.3 C 2 of the El Paso City Charter as the due process rights of citizens would otherwise be compromised based on the responsibilities and obligations that have been assigned by City ordinance to the Building and Standards Commission.

*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** budget transfer BT2005-997 PARKS AND RECREATION

This budget transfer requests a new appropriation to purchase a storage shed for the Multipurpose Center utilizing the User Fee Fund.

Increase	\$2,800	to	51510032/P50022516325/407002	EstRev
Increase	\$2,800	to	51510032/P50022516325/508003	BldgImprvmts

*Motion made Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** budget transfer BT2005-1034 BUILDING AND PLANNING SERVICES

Building and Planning Services proposes to transfer \$26,500 from the 2000 QOL Parks Contingency project to the Rose Garden Project. Funding source is 2000 QOL bonds.

Decrease	\$26,500	from	31130600/PQLPA17760176/504405	OpCntingency
Increase	\$26,500	to	31130600/PQLPA17760176/507001	IntrafdTrf(U)
Increase	\$26,500	to	14101001/PQLPA15060150/407001	IntrafdTrf(S)
Increase	\$26,500	to	14101001/PQLPA15060150/508027	Construction

*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** budget transfer BT2005-1051 PARKS AND RECREATION

This budget transfer requests a new appropriation to purchase a scoreboard for the Armijo Aquatics Facility. This will allow this pool to be used for competitive swimming. Money is available in Aquatics Fund Balance.

Increase	\$15,000	to	51010281/P50020316303/407002	Est Rev
Increase	\$15,000	to	51010281/P50020316303/508008	Major Equip

*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** the request of St. Mark's United Methodist Church to use amplification (8 speakers, 5 microphones and 1 amplifier - 1000 watts) at Marwood Park – 4325 River Bend on May 14, 2005 from 12:00 p.m. to 5:00 p.m. Approximately 25 persons will take part and 150 spectators are anticipated. PERMIT # 05-047 [George Armas]

*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** the request of U.S.-Mexico Border Health Association to hold a 13th Annual International AIDS Vigil on May 15, 2005 from 8:00 p.m. to 9:00 p.m. Route: Start at San Jacinto Plaza to Mesa, proceed on Mesa to San Antonio, turn left on San Antonio to Stanton, turn right on Stanton and finish at the International Bridge. Approximately 200 persons will take part. PERMIT # 05-048 [Ruby A Marentes]

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*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** the request of El Paso Central Business Association to use amplification (1 microphone and 2 speakers) at Calendar Park – 401 E. San Antonio Ave on May 13, 2005 and May 20, 2005 from 11:30 a.m. to 1:00 p.m. for a public concert. Approximately 3 persons will take part and 50 spectators are anticipated. PERMIT # 05-051 [Alonso Flores]

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Motion made by Representative Rojas, seconded by Representative Cobos 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:

Representatives Austin, Lozano and Ortega were not present for the vote.

- A.** An ordinance granting a Special Privilege to O.P.E.P. Incorporated to temporarily close a portion of Ochoa Street between First Avenue and Paisano Drive for a “Foam Party Memorial Day Celebration” on Sunday, May 29, 2005 and Monday, May 30, 2005. (Fee: \$137.50, SP-05008)

- B.** An Ordinance amending Title 12 (Vehicles and Traffic), Chapter 12.88 (Schedules), Section 12.88.040 (Schedule IV, Parking Prohibited During Certain Hours on Certain Streets), Paragraph J (No Parking 7:00 A.M. to 4:00 P.M.), of the El Paso Municipal Code, to amend Subsection 4 to read Frank Cordova Circle (North Entrance), from Firehouse Drive to a point 750 feet East thereof, both sides, all of Mike Andrade Place, all of Luis Gomez Place, and at the following properties in the Frank Cordova cul-de-sac; 12121, 12125, 12127, and 12129. The Penalty as provided in Section 12.84.010 of the El Paso Municipal Code.

PUBLIC HEARINGS WILL BE HELD ON MAY 24, 2005 FOR ITEMS A - B

Public Hearings will be held as part of the regular City Council meeting which begins at approximately 9AM. All interested persons present shall have an opportunity to be heard at that time. After the public hearings, Council may also delay taking action on Ordinances, no requirement is made by Section 3.9B of the El Paso City Charter to publish any further notice. Copies of all Ordinances are available for review in the City Clerk’s office, 2 Civic Center Plaza, Monday through Friday, 8AM to 5PM.

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Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **MOVE TO THE FOREFRONT** of the regular agenda the discussion and action regarding the Cedar Oak Townhomes Development Project.

Mayor Joe Wardy and Representatives Escobar, Rojas, Cushing, Austin, Ortega, and Cobos commented.

The following City staff members commented:

- 1. Ms. Lisa Hayes, Assistant City Attorney, gave a Powerpoint presentation. (on file in the City Clerk’s Office)
- 2. Ms. Lisa A. Elizondo, City Attorney, recommended that further discussion be held in Executive Session.

The following members of the public commented:

1. Mr. Art Rivera
2. Mr. James Camacho, President of the Las Palmas Neighborhood Association
3. Mr. Hector Herrera
4. Ms. Lisa Turner
5. Mr. Frank Ainsa, attorney representing Investment Builders

After the item was discussed in executive session, Mr. Jim Martinez, Assistant City Attorney, read the motion into the record.

Motion made by Representative Rojas, seconded by Representative Ortega and unanimously **CARRIED** that the City Attorney research the City's ability to file a lawsuit regarding the award of tax credits by TDHCA, to file a formal complaint with H.U.D. and to research the implications of both.

Representatives Lozano and Escobar were not present for the vote.

Representative Rojas stated that she would be placing an item on next week's agenda so that the City Attorney's Office can report back to Council and that she will be drafting a letter to the Governor of Texas, the President, State Senator and the State Representatives regarding this matter.

NOTE: Item was discussed in executive session.

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NO ACTION WAS TAKEN regarding the discussion and action to direct the City of El Paso's Engineering Department, Traffic Division, to assess the need for two stop signs to halt East and West bound vehicular traffic along Parral Dr. at the intersection of Parral Dr. and La Paz due to frequent motor vehicle accidents.

Representative Lozano commented.

Ms. Joyce Wilson, City Manager, commented.

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Item: Discussion and action regarding Texas Gas Service's proposed adjustment to its base rates pursuant to the Texas Gas Reliability Infrastructure Program.

Mayor Joe Wardy and Representatives Austin, Cobos, Ortega, Cook, Cushing, Rojas, and Escobar commented.

Ms. Joyce Wilson, City Manager, commented.

The following members of the public commented:

1. Mr. Norman Gordon, outside counsel, gave a Powerpoint presentation (on file in the City Clerk's Office)
2. Mr. Jack Chapman, attorney from Kemp Smith LLP
3. Mr. Richard Fleager, Vice President of Texas Gas Service
4. Ms. Lisa Turner
5. Mr. Ray Gilbert
6. Mr. Richard Schechter

Representative Cobos moved to postpone for six (6) weeks. There was no second to the Motion.

1ST MOTION:

Motion made by Representative Austin, seconded by Representative Ortega and **NOT CARRIED** to approve the Texas Gas Service's proposed adjustment to its base rates pursuant to the Texas Gas Reliability Infrastructure Program.

AYES: Representatives Austin, Cushing, Ortega and Escobar
NAYS: Representatives Lozano, Cook, Rojas, Cobos and Mayor Wardy

Mayor Joe Wardy voted NAY to break the tie. Motion to approve **FAILED**.

2ND MOTION:

Motion made by Representative Cook, seconded by Representative Lozano and unanimously carried to **RECONSIDER** the discussion and action regarding Texas Gas Service's proposed adjustment to its base rates pursuant to the Texas Gas Reliability Infrastructure Program.

Mr. Gordon explained that the effective date specified is May 31, 2005 and that under the law, the Council has the right to suspend the increase. He suggested that if the item was going to be postponed for six weeks that the suspension of Texas Gas Service's request expire effectively on that same date.

3RD AND FINAL MOTION:

Motion made by Representative Cook, seconded by Representative Lozano and unanimously carried to **POSTPONE SIX (6) WEEKS** and to suspend Texas Gas Service's proposed rate adjustment request and such suspension shall expire in six weeks.

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Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **MOVE TO THE FOREFRONT** of the regular agenda the Resolution that, having conducted a public hearing and having previously approved a Resolution adopting that portion of a Proposed 2005-2006 Annual Action Plan, which includes items 1 through 55 of the Proposed Budget for the 31st Year (2005-2006) Community Development Block Grant Program, together with the Proposed Budgets for the FY 2005 Emergency Shelter Grant Program, and the FY 2005 HOME Investment Partnerships Program, the City Council hereby adopts the remaining portion of the Proposed 2005-2006 Annual Action Plan, which includes items 56 through 96 of the Proposed Budget for the 31st Year (2005-2006) Community Development Block Grant Program.

RESOLUTION

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

That, having conducted a public hearing and having previously approved a Resolution adopting that portion of a Proposed 2005-2006 Annual Action Plan, which includes items 1 through 55 of the Proposed Budget for the 31st Year (2005-2006) Community Development Block Grant Program, together with the Proposed Budgets for the FY 2005 Emergency Shelter Grant Program, and the FY 2005 HOME Investment Partnerships Program, the City Council hereby adopts the remaining portion of the Proposed 2005-2006 Annual Action Plan, which includes items 56 through 96 of the Proposed Budget for the 31st Year (2005-2006) Community Development Block Grant Program.

The following members of the public thanked the Council Members:

- 1. Mr. Basilio Valenzuela
- 2. Ms. Marina Rios

Mayor Joe Wardy and Representatives Austin, Cobos, Escobar, Lozano, Rojas, Cushing, Ortega, and Cook commented.

The following City staff members commented:

1. Mr. Roberto A. Salinas, Director of Community and Human Development
2. Ms. Joyce Wilson, City Manager
3. Assistant Fire Chief Manny Chavira

1ST MOTION:

Motion made by Representative Cushing, seconded by Representative Rojas that the McConnell Avenue Street and Drainage Improvement Project for the 31st and 32nd years as recommended by staff and the Community Development Steering Committee be dropped; and Nations Tobin Park Paving Project be adopted with a revised budget of \$369,581, and to commit the remaining funds to San Juan Senior Citizen Center Project.

Representative Cushing withdrew the above Motion.

2ND MOTION:

Motion made by Representative Cushing, seconded by Representative Lozano and unanimously carried to **AMEND** the Proposed 31st Year (2005-2006) Community Development Budget Recommendations, as stated by Representative Cushing.
(spreadsheet as amended is attached to the resolution on file in the City Clerk's Office)

3RD MOTION:

Motion made by Representative Austin to **DELETE** Project 87, Central Fire Station HVAC Replacement, to **ADD** Project 92, Creative Kids, Inc., and put \$58,000 to restore \$58,000 of curb cuts.

Motion died for lack of a second.

4TH MOTION:

Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **DELETE** Project 86, Sixth Avenue Street and Drainage Improvements Phase II and **MOVE** those resources to Project 88, Rawlins Dental Center to conform the scope of work to the \$640,428 budget.

5TH AND FINAL MOTION:

Motion made by Representative Lozano, seconded by Representative Cobos and unanimously carried to **APPROVE** the **RESOLUTION and the AMENDED** 31st Year (2005-2006) Community Development Budget.

Mayor Joe Wardy stated for the record that the public hearing had been held at a previous City Council meeting.

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 Motion made by Representative Cushing, seconded by Representative Cobos and unanimously carried to **POSTPONE ONE (1) WEEK** the discussion and action on a resolution to authorize the City Manager to accept approximately \$5.8 million in Palo Verde Rewards from the El Paso Electric Company, determine how the Palo Verde Rewards will be used, and establish any requisite criteria for directing the use and accounting of the Palo Verde Rewards.

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 Item: An Ordinance amending Title 19 (Subdivisions) of the El Paso Municipal Code by amending Chapter 19.16 (Improvement Standards and Design Principles) Section 19.16.050 (Stormwater Design) Subsection 19.16.050.H (Preservation of Natural Arroyos) to require that the City Plan Commission determine whether to approve a modification of conditions to allow improvements on natural drainage courses known as arroyos. The penalty is as provided in Section 19.04.190 of the Code.

Mayor Joe Wardy and Representatives Austin, Cushing, Cook, Rojas, and Lozano commented.

The following City staff members commented:

1. Mr. Matt Watson, Assistant City Attorney, read into the record amendments to the Ordinance.
2. Mr. George G. Sarmiento, Director of Planning, Research and Development
3. Ms. Terri Cullen-Garney, Deputy City Attorney
4. Ms. Joyce Wilson, City Manager
5. Ms. Irene Ramirez, Assistant City Engineer

The following members of the public commented:

1. Mr. Rick Cordova, Arroyo Ad Hoc Committee
2. Mr. Ray Gilbert
3. Mr. Stuart Mitchell, President of the Mountain Arroyos Neighborhood Association
4. Mr. Richard Schecter
5. Mr. Charlie Wakeem, read into the record the definition of an arroyo as per USGS Chief Scientist Randall Schumann, arroyo is a Spanish word meaning "water course, a stream usually intermittent with a flat floor and vertical or near vertical walls".

1ST MOTION:

Motion made by Representative Austin, seconded by Representative Rojas and carried to **AMEND THE ORDINANCE** as read into the record by Mr. Matt Watson, Assistant City Attorney.

AYES: Representatives Austin, Lozano, Cook, Ortega and Rojas

NOT PRESENT FOR THE VOTE: Representatives Cushing, Escobar and Cobos

2ND AND FINAL MOTION:

Motion made by Representative Lozano, seconded by Representative Cook and carried to **POSTPONE ONE (1) WEEK THE AMENDED** Ordinance amending Title 19 (Subdivisions) of the El Paso Municipal Code by amending Chapter 19.16 (Improvement Standards and Design Principles) Section 19.16.050 (Stormwater Design) Subsection 19.16.050.H (Preservation of Natural Arroyos) to require that the City Plan Commission determine whether to approve a modification of conditions to allow improvements on natural drainage courses known as arroyos. The penalty is as provided in Section 19.04.190 of the Code.

AYES: Representatives Lozano, Cook and Rojas

NAY: Representative Austin

NOT PRESENT: Representatives Cushing, Ortega, Escobar and Cobos

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 Motion made by Representative Rojas, seconded by Representative Cook and unanimously carried to **DELETE** the public hearing to determine if the property located at 2002 Detroit Avenue, in the City of El Paso (legal description on file with the City Clerk) is a fire and safety hazard, and a nuisance and whether the same should be repaired or demolished. First investigated December 19th, 2004. The owner of this property, Lupe G. Avina, 1612 Bernard Kern Drive, El Paso, Texas 79936-5602, has been notified of the violations at this property.

Representatives Cushing, Ortega, Escobar and Cobos were not present for the vote.

Motion made by Representative Rojas, seconded by Representative Cook and unanimously carried to **DELETE** the public hearing to determine if the property located at 1300 E. Paisano Drive, in the City of El Paso (legal description on file with the City Clerk) is a fire and safety hazard, and a nuisance and whether the same should be repaired or demolished. First investigated April 3rd, 2002. The owner of this property, Meats, Inc., 1300 E. Paisano Drive, El Paso, Texas 79901, has been notified of the violations at this property.

Representatives Cushing, Ortega, Escobar and Cobos were not present for the vote.

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Motion made by Representative Lozano, seconded by Representative Cook and unanimously carried to **DELETE** the public hearing to determine if the property located at 131 Linden Street Apt. B, in the City of El Paso (legal description on file with the City Clerk) is a fire and safety hazard, and a nuisance and whether the same should be repaired or demolished. First investigated January 25th, 2005. The owners of this property, Maria Lourdes and Carlos J. Corral, 131 Linden Street Apt. B, El Paso, Texas 79905, have been notified of the violations at this property.

Representatives Cushing, Ortega, Escobar and Cobos were not present for the vote.

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RESOLUTION

WHEREAS, the Director for Building Permits and Inspections of the City of El Paso has conducted an investigation and has reported to the City Council in writing that he is of the opinion that the structure located on the property at 5318 Gateway East Boulevard, in El Paso, Texas, which property is more particularly described as follows:

Lots: 31 and 32, Block 19, Brentwood Heights Addition, an Addition to the City of El Paso, El Paso County, Texas, according to the map thereof on File in Book 5, Page 56, Plat Records of El Paso County, Texas

is dilapidated, substandard, and unfit for human habitation; is a hazard to public health, safety, and welfare; does not meet the minimum standards for continued use and occupancy contained in Titles 17 and 18 of the Municipal Code which are adopted and incorporated by reference into Section 18.52; and

WHEREAS, Marcelo & Nora F. Vasquez, record Owners, and all mortgagees and lienholders were duly notified according to law to appear at a public hearing before City Council at 9:00 a.m. on May 10th, 2005; and

WHEREAS, NO ONE, APPEARED,

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

1. That City Council having heard the evidence, makes the following findings:
 - a. That the structure located on said property is unsafe, substandard, unfit for human habitation or use, and therefore a hazard to the public health, safety, and welfare; and
 - b. That the structure is not in substantial compliance with municipal ordinances regulating structural integrity and disposal of refuse; and
 - c. The structure's certificate of occupancy is hereby revoked; and
 - d. Since the owner has failed to supply any drawings, plans, or reports to indicate otherwise, we find that the structure cannot be repaired.

2. That the City Council hereby orders Owners to comply with the following requirements:
 - a. That the main structure and accessory buildings be demolished within (30) days; and
 - b. That the premises be cleaned of all weeds, trash and debris within (30) days; and
 - c. That the Owners of said Building are hereby ordered to comply with all requirements of the Resolution; and
 - d. The owners are advised that in order to obtain a new certificate of occupancy, the entire building and its service systems must be brought into compliance with the current codes.
 - e. That upon failure of the Owners to comply with this Resolution, any mortgagees, lienholder, and other persons having an interest in the property have an additional ten (10) days to demolish the Building and clean the premises of all weeds, trash, and debris; and
3. That upon failure of the Owners to comply with this Order, the City of El Paso through its Director for Building Permits and Inspections may demolish the Building and clean the premises of all weeds, trash, and debris at its own expense, but for and on account of the Owners of said property; and
4. That said Owners shall become personally liable for all costs incurred by City in connection with demolishing and cleaning the premises of all weeds, trash and debris; and
5. That the costs incurred by the City in connection with demolishing and cleaning the premises of all weeds, trash, and debris shall become due and payable within thirty (30) days of the date of completion of the work and such cost shall be assessed as a lien against the property unless paid; and
6. That upon failure of the Owners to comply with this Order, one or all of the following actions will be taken:
 - a. The City may perform any and all work needed to bring the property into compliance with this order, at its own expense but for and on account of the Owners of said property, the cost of which shall be assessed as a lien against the property; and
 - b. That upon failure of the Owners to comply with this order the City Council may assess a civil penalty against the property Owners in an amount not to exceed \$1,000.00 a day for each violation or, if the Owners show that the property is the Owner's lawful homestead, in an amount not to exceed ten (10) dollars a day for each violation; and
 - c. That upon failure of the Owners to comply with this order, the Owners may be confined in jail as permitted by state law; and
7. That upon failure of the Owners, any mortgagees or lienholders to restore the Building so that it complies with all relevant City Code requirements, the City of El Paso, if applicable, may bring an action in District Court to request appointment of a receiver for the rehabilitation of said property pursuant to Section 214.003 of the Texas Local Government Code; and
8. The Owners, any mortgagees, or lienholders have a right to appeal these findings to a court of competent jurisdiction within thirty (30) days after notice of this Resolution. The findings shall become final after thirty (30) days of receipt of Notice; and

9. That any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of assessment until paid in full; and
10. That the City Clerk is ordered to cause copies of this Resolution to be served on the record Owners and all other persons having interest in the property as provided by law.

According to the real property records of El Paso County, you own the property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

Mr. Thomas Maguire, Building Permits and Inspections, presented the case to Council Members and read the Department's recommendations into the record.

Motion made by Representative Lozano, seconded by Representative Cook and unanimously carried to **APPROVE** the above Resolution.

Representatives Cushing, Ortega, Escobar and Cobos were not present for the vote.

.....
 *Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **DELETE** the public hearing and discussion and action on the acknowledgement and acceptance of a Proposed 2005-2010 Consolidated Plan for the City of El Paso and adoption of the remaining portion of the Proposed 2005-2006 Annual Action Plan, which includes items 56 through 96 of the Proposed Budget for the 31st Year (2005-2006) Community Development Block Grant Program.

.....
 *Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **DELETE** the discussion and action on a Resolution that the City Council, having conducted a Public Hearing, hereby acknowledges and accepts a Proposed 2005-2010 Consolidated Plan for the City of El Paso and adopts the Proposed 2005-2006 Annual Action Plan including the Proposed Budgets for the 31st Year (2005-2006) Community Development Block Grant Program, the FY 2005 Emergency Shelter Grant Program, and the FY 2005 HOME Investment Partnerships Program, and hereby directs that the notice of availability of the Proposed 2005-2010 Consolidated Plan for the City of El Paso and the Proposed Budgets for the 31st Year (2005-2006) Community Development Block Grant Program, the FY 2005 Emergency Shelter Grant Program, and the FY 2005 HOME Investment Partnerships Program, be published in the El Paso Times on Sunday, May 15, 2005, to provide the public with an opportunity to review the Proposed 2005-2010 Consolidated Plan and the Proposed Budgets, as part of the summary of Proposed Annual Action Plan for 2005-2006, and submit comments to the City Council or the Department of Community and Human Development. The deadline for submission of written comments will be 5:00 p.m., on Wednesday, June 15, 2005. The City Council will conduct a public hearing in City Council Chambers at the City Council meeting on Tuesday, June 28, 2005, for the purpose of receiving comments from the public and adopting the 2005-2010 Consolidated Plan and the Annual Action Plan, including the 31st Year (2005-2006) Community Development Block Grant Program Budget, the FY 2005 Emergency Shelter Grant Program Budget and the FY 2005 HOME Investment Partnerships Program Budget, for submission to the U.S. Department of Housing and Urban Development.

ORDINANCE 16046

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.88 (SCHEDULES), SECTION 12.88.150 (SCHEDULE XIV, SPEED LIMITS), OF THE EL PASO MUNICIPAL CODE, TO ADD A SUBSECTION IDENTIFYING THE SPEED LIMIT AS THIRTY-FIVE MILES PER HOUR ON LOMA VERDE DRIVE BETWEEN PINE SPRINGS DRIVE AND ROJAS DRIVE. THE PENALTY AS PROVIDED IN SECTION 12.84.010 OF THE EL PASO MUNICIPAL CODE.**

Mr. Ted Marquez, Traffic Engineer Division Manager – Engineering, responded to questions from Representative Rojas.

The City Clerk called for public comment. There was no public comment.

Motion duly made by Representative Austin, seconded by Representative Lozano, 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: Council Members Austin, Lozano, Cook and Rojas
NAYS: None Absent: None
NOT PRESENT: Council Members Cushing, Ortega, Escobar and Cobos

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

.....
ORDINANCE 16047

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A SPECIAL PRIVILEGE TO THE CENTRAL BUSINESS ASSOCIATION OF EL PASO, INC., TO PERMIT TEMPORARY SIDEWALK VENDING FOR PARTICIPATING MERCHANTS WITHIN CERTAIN PUBLIC RIGHTS-OF-WAY IN DOWNTOWN EL PASO FROM MAY 11, 2005 THROUGH JULY 3, 2005.**

There was no discussion.

The City Clerk called for public comment. There was no public comment.

Motion duly made by Representative Lozano, seconded by Representative Cook, 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: Council Members Austin, Lozano, Cook and Rojas
NAYS: None Absent: None
NOT PRESENT: Council Members Cushing, Ortega, Escobar and Cobos

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

.....

ADDITION TO THE AGENDA

Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **MOVE TO THE REGULAR AGENDA** the following:

RESOLUTION

Whereas, in 1997, the City approved a plat for a subdivision known as Cumbre Estates Unit One in El Paso, El Paso County, Texas (“Subdivision”). The Subdivision was owned by Cumbre Development Corporation (“Cumbre”) who commenced a residential development;

Whereas, on September 27, 2002, prior to completion the Subdivision, Cumbre filed for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of Texas, El Paso Division. The Chapter 11 bankruptcy proceeding was converted into a Chapter 7 bankruptcy for which Donald S. Leslie was appointed as trustee (“Trustee”);

Whereas, Developer acquired approximately 144 acres of land owned by Cumbre which included the Subdivision from the Trustee;

Whereas, Developer is completing the subdivision improvements, which include the construction of a drainage structure to be located within Castellano Drive (“Castellano Drainage Improvements”). Pursuant to the City approved subdivision improvement plans, the Castellano Drain Improvements consist of a twenty-four (24) inch reinforced concrete pipe installed along Castellano Drive;

Whereas, Developer has also been approved for Castellano Drain Improvements consisting of a forty-eight (48) inch pipe installed along Castellano Drive with accompanying and appropriately sized concrete stormwater headwall;

Whereas, the City may in the future desire to have Developer install an oversized pipe as part of the Castellano Drain Improvements to handle additional drainage in the area that is not attributable to the Subdivision (“City’s Additional Drainage”) but otherwise would like an oversized 48-inch concrete stormwater headwall regardless of whether future agreement with developer is entered into;

Whereas, the City and Developer have agreed that this Contract will allow for the more timely and cost-efficient construction of the Castellano Drainage Improvements whether the City contracts with the Developer or otherwise for any possible future oversizing of the entire drainage structure;

Whereas, the City and Developer may enter into a developer participation agreement for construction of the full Castellano Drainage Improvements in addition to preliminary work contemplated herein, which agreement may include provisions that amend or supercede those in the Contract permitted hereby;

Whereas, the City and Developer agree that it is in the City’s best interest for the Developer to undertake certain preliminary work that will further or support the full Castellano Drainage Improvements should the City Council subsequently approve a developer participation agreement as to same;

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

1. That the City Manager be authorized to sign a Cumbre Estates Developer Participation Contract for Preliminary Work for the construction of certain preliminary work relating to construction of a drainage structure to be located within Castellano Drive. This developer agreement is made pursuant to Section 212.071 and Section 212.072 of the Texas Local Government Code as well as the City of El Paso Municipal Code.

Mr. Ray Gilbert, citizen, commented.

Representative Rojas commented.

Ms. Teresa Quezada, Capital Development Program Administrator, commented.

Motion made by Representative Austin, seconded by Representative Rojas and unanimously carried to **APPROVE** the above Resolution.

Representatives Cushing, Ortega, Escobar and Cobos were not present for the vote.

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*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **DELETE** the board appointment of Susan F. Austin to the Finance Committee of the El Paso City-County Health and Environmental District, as the City's Appointment, by Mayor Joe Wardy.

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Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **MOVE TO THE REGULAR AGENDA** the request to allocate \$3,000.00 from District #1 Discretionary Funds for the construction of certain preliminary and/or excavation work relating to construction of a drainage structure to be located within Castellano Drive.

See discussion regarding the resolution for Cumbre Estates Developer Participation Contract.

Motion made by Representative Austin, seconded by Representative Rojas and unanimously carried to **APPROVE** the request to allocate \$3,000.00 from District #1 Discretionary Funds for the construction of certain preliminary and/or excavation work relating to construction of a drainage structure to be located within Castellano Drive. Acct. No. 504420, Dept ID 01153001, Fund 16501, Project PD10422

Representatives Cushing, Ortega, Escobar and Cobos were not present for the vote.

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*Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **APPROVE** the request authorizing to allocate ONE THOUSAND SIX HUNDRED DOLLARS (\$1,600.00) from District #4 Discretionary Funds for sponsorship of six concerts this summer to take place at Veteran's Park in Northeast El Paso under the "Concerts in the Park Summer Series".

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Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to **MOVE TO THE REGULAR AGENDA** budget transfer BT2005-1082 BUILDING AND PLANNING SERVICES.

See discussion regarding the resolution for Cumbre Estates Developer Participation Contract.

Motion made by Representative Austin, seconded by Representative Rojas and unanimously carried to **APPROVE** budget transfer BT2005-1082 BUILDING AND PLANNING SERVICES

Building and Planning Services proposes to transfer \$105,000 from previously issued General Obligation bonds to fund a proposed developer's agreement for Castellano Box Culvert. Funding source is 2000A GOs.

Decrease	\$105,000	from	31130007/P501999/504405	Contingency
Increase	\$105,000	to	3113007/PFL050001/508027	Construction

Representatives Cushing, Ortega, Escobar and Cobos were not present for the vote.

.....
Motion made by Representative Rojas, seconded by Representative Cobos and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 12:46 p.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, 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 following:

12A. Discussion and action regarding the Cedar Oak Townhomes Development Project.

Motion made by Representative Cushing, seconded by Representative Escobar and unanimously carried to adjourn the Executive Session and reconvene the meeting of the City Council at 1:21 p.m., during which time a motion was made as follows:

Representatives Austin, Lozano and Rojas were not present for the vote.

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Motion made by Representative Rojas, seconded by Representative Ortega and unanimously **CARRIED** that the City Attorney research the City's ability to file a lawsuit regarding the award of tax credits by TDHCA, to file a formal complaint with H.U.D. and to research the implications of both.

Representatives Lozano and Escobar were not present for the vote.

See discussion on pages 6 and 7.

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Motion made by Representative Cook, seconded by Representative Lozano and unanimously carried to **ADJOURN** this meeting at 3:39 p.m.

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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk