

JOHN F. COOK
MAYOR



JOYCE WILSON
CITY MANAGER

CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

**REGULAR COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
JULY 1, 2008
8:30 A.M.**

The City Council met in regular session at the above place and date. Meeting was called to order at 9:04 a.m. Mayor John F. Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Susannah M. Byrd, Emma Acosta, Melina Castro, Rachel Quintana, Steve Ortega, and Beto O'Rourke. Absent: Eddie Holguin, Jr. requested to be excused. The invocation was given by Reverend Lisle Davis, followed by the Pledge of Allegiance to the Flag of the United States of America.

MAYOR'S PROCLAMATIONS

- 1. HISPANIC BUILDERS ALLIANCE DAY**
- 2. NATIONAL HIV TESTING DAY - "TESTING IN THE BORDER"**
- 3. PARKS AND RECREATION MONTH**

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 9:00 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. Ben Gomersall
2. Mr. Ray Bannon
3. Mr. Myke Fakir
4. Ms. Esther Perez
5. Mr. Walt Phillips

Representative Lilly commented.

Mr. Charlie McNabb, City Attorney, gave legal advice.

1ST MOTION

Motion made by Representative Quintana, seconded by Representative Castro, and unanimously carried to **SUSPEND THE RULES OF ORDER** and allow Mr. Gomersall an additional minute to address the Council.

2ND MOTION

Motion made by Representative Lilly, seconded by Representative Castro, and unanimously carried to **SUSPEND THE RULES OF ORDER** and allow Mr. Bannon an additional minute to address the Council.

3RD AND FINAL MOTION

Motion made by Representative Ortega, seconded by Representative Quintana, and unanimously carried to **SUSPEND THE RULES OF ORDER** and allow Mr. Fakir an additional minute to address the Council.

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CONSENT AGENDA

Motion made by Mayor Pro Tempore Byrd, seconded by Representative Acosta, 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, Castro, Quintana, Ortega, and O'Rourke

NAYS: None

ABSENT: Representative Holguin
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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 June 24, 2008, and the Special City Council Work Session Meetings of June 13, 2008 (Smart Code), June 20, 2008 (Smart Code), and June 23, 2008 (Smart Code).
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2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

*Motion made, seconded, and unanimously carried to **EXCUSE** Representative Eddie Holguin, Jr. from the Regular Council Meeting of July 1, 2008.
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3A.

***RESOLUTION**

WHEREAS, in accordance with Chapter 18.50 of the El Paso City Code, the Building and Standards Commission of the City of El Paso, by Order dated the 30th day of August 2006, after due notice and hearing, issued an order to Veronica Rodriguez, record Owner of the hereinafter described property that the main structure be secured within 30 days and to clean the premises of all weeds, trash, and debris all within 30 days, and the Owner and any mortgagee or lienholder having 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 and clean the premises of all weeds, trash, and debris.

WHEREAS, the Director for the Development Services 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 structure and cleaning the premises of all weeds, trash and debris from the property, more particularly described as:

Lot 41, Block 25, Castner Heights Unit Four, an addition to the City of El Paso, El Paso County, Texas, municipally known and numbered as 4809 Maureen Circle, El Paso, Texas.

to be \$477.42, performed by the Street Department of the City of El Paso, and \$896.48, performed by the City Clerk's Office and Development Services Department, making a total of \$1,373.90. The City Council finds that the work was completed on the 23rd day of May 2007, 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 \$1,373.90 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**

WHEREAS, in accordance with Chapter 18.50 of the El Paso City Code, the City Council of the City of El Paso, by Order dated the 7th day of May, 2002, after due notice and hearing, issued an order to Elvira Dora Valenzuela, record Owner of the hereinafter described property that the main structure be secured, demolish accessory structures within 30 days and to clean the premises of all weeds, trash, and debris all within 30 days, and the Owner and any mortgagee or lienholder having 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, demolish accessory structures and clean the premises of all weeds, trash, and debris.

WHEREAS, the Director for the Development Services 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 structure, demolishing the accessory structures and cleaning the premises of all weeds, trash and debris from the property, more particularly described as:

Lot 13, less the South 2 Feet, Block 26, Thomas Mannor Unit Ten, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 31, Page 18, Plat Records in the Office of the County Clerk, El Paso County, Texas, municipally known and numbered as 349 Maricela Drive, El Paso, Texas.

to be \$1,354.27, performed by the Street Department of the City of El Paso, and \$1,564.20, performed by the City Clerk's Office and Development Services Department, making a total of \$2,918.47. The City Council finds that the work was completed on the 8th day of January 2004, 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 \$2,918.47 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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3B.

***RESOLUTION**

That the City Manager be authorized to sign a Professional Services Agreement between the City of El Paso and Omni Construction Services, LLC, a Texas Limited Liability Company, to perform consulting services for a project known as "Carnegie Ave. Street & Drainage Improvements Construction Phase" for a contract amount of \$136,568.44, and that the City Engineer be authorized to approve up to \$50,000 in additional services, for a total contract amount not to exceed \$186,568.44.

Mayor Cook and Representatives Ortega and Quintana commented.

Ms. Joyce Wilson, City Manager, and Mr. Alan Shubert, City Engineer, commented.

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3C.

***RESOLUTION**

WHEREAS, at the City of El Paso's request, the State of Texas, acting by and through its Texas Transportation Commission (TTC) passed TTC Minute Order No. 102542 providing for the development and funding of the Central Business District Phase IV street reconstruction project for downtown El Paso, Texas; and

WHEREAS, on October 8, 2001, the State of Texas and the City of El Paso entered into a Local Transportation Project Advance Funding Agreement for an STP-Metropolitan Mobility Project for reconstruction of various downtown city streets, also known as the Central Business District Phase IV; and

WHEREAS, pursuant to the original agreement, Architectural and Engineering Services and Construction responsibilities were to be provided and carried out by the State of Texas, with the City of El Paso paying its funding share of the costs for the project; and

WHEREAS, in an effort to expedite the performance of the work, it has become necessary to amend the agreement to provide that the Architectural and Engineering Services and Construction Responsibilities will be provided and carried out by the City of El Paso, with the State of Texas reimbursing the City of El Paso for the properly supported costs incurred; and

WHEREAS, the City of El Paso desires to enter into an amended agreement with the State of Texas, for the development and funding of the Central Business District Phase IV street reconstruction project for downtown El Paso, Texas;

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

That the City Manager is hereby authorized to sign Agreement STP – Metro Mobility Project Amendment #1 with the State of Texas, acting by and through the Texas Department of Transportation, for the Central Business District Phase IV street reconstruction project for downtown El Paso, El Paso County, Texas.

Representative Quintana commented.

Ms. Terry Quezada, Capital Improvement Program Administrator, commented.

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3D.

***RESOLUTION**

That the City Manager be authorized to sign and accept a Perpetual Easement Agreement with El Paso County Water Improvement District in the District's Nemexas Drainage Canal to construct, maintain, and use a traffic "round about" on and across that portion of District Property as more particularly shown in Exhibit B of the Agreement. The cost to the City is \$46,105.70.

Representative Ortega commented.

Mr. Alan Shubert, City Engineer, commented.

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3E.

***RESOLUTION**

That the City Manager be authorized to sign an Agreement for Professional Auditing Services ("Agreement") between the City and BKD, LLP, to provide auditing services in conjunction with the City's audit for the fiscal year ended August 31, 2008, with an option to extend for four additional one-year terms as approved by City Council.

Representatives Ortega and Quintana commented.

Ms. Joyce Wilson, City Manager, and Ms. Carmen Arrieta-Candelaria, Chief Financial Office of Financial Services, commented.

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3F.

***RESOLUTION**

That the City Manager be authorized to sign an Amendment No. 1 to Master Purchase Agreement No. 2006MPA316 (MPA) between City of El Paso And Environmental Systems Research Institute, Inc. to extend the term of the Agreement until July 11, 2010.

Representative O'Rourke commented.

The following City staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. Terrence Freiburg, Director of Purchasing
- 3. Mr. Daryl Cole, Director of Streets

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3G. RESOLUTION

*Motion made, seconded, and unanimously carried to **POSTPONE** two weeks the item on a Resolution that the City of El Paso accepts the deeds on six parcels for the Singh Road extension.

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4. BOARD RE-APPOINTMENT

*Motion made, seconded, and unanimously carried to **RE-APPOINT** David M. Wysong to the Airport Board by Representative Beto O'Rourke, District 8.

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5A. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **DELETE** the appointment of Marianne Campbell to the Animal Shelter Advisory Committee by Representative Rachel Quintana, District 5.

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5B. BOARD APPOINTMENT

Motion made, seconded, and unanimously carried to **APPOINT** Michelle Barron to the International Bridge Commission, filling an unexpired term, by Representative Melina Castro, District 4.

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6. APPLICATIONS FOR TAX REFUND

*Motion made, seconded, and unanimously carried that the following tax refunds be **APPROVED**:

- A. Med One Capital in the amount of \$5,152.30 overpayment of 2007 taxes. (PID #0655-999-1037-5334).
- B. Sierra Title Company in the amount of \$3,019.20 overpayment of 2007 taxes. (PID #C231-999-0280-7350).
- C. Citimortgage in the amount of \$4,760.67 overpayment of 2007 taxes. (PID #C518-999-0680-4200).
- D. Wells Fargo Real Estate Service, LLC in the amount of \$5,301.01 overpayment of 2007 taxes. (PID #H454-999-0030-2900).
- E. Countrywide Tax Services Corporation in the amount of \$2,674.56 overpayment of 2007 taxes. (PID #R220-000-0080-1100).
- F. Citimortgage in the amount of \$3,814.65 overpayment of 2007 taxes. (PID #R460-999-0200-3100).
- G. HSBC Mortgage in the amount of \$3,991.31 overpayment of 2007 taxes. (PID #R843-999-0040-6700).
- H. John Buttner and Amber Clark in the amount of \$3,345.53 overpayment of 2007 taxes. (PID #S162-999-0010-0900).
- I. Mortgage Service Center in the amount of \$3,416.76 overpayment of 2007 taxes. (PID #S380-999-0160-4300).
- J. AmTrust in the amount of \$2,986.42 overpayment of 2007 taxes. (PID #S812-999-0040-1000).
- K. AmTrust in the amount of \$4,562.74 overpayment of 2007 taxes. (PID #T213-999-0140-4000).
- L. Sears Roebuck & Co. in the amount of \$32,795.14 overpayment of 2007 taxes. (PID #V893-999-1300-5100).

M. AmTrust Bank in the amount of \$4,335.53 overpayment of 2007 taxes.
(PID #V897-999-0310-1000).

N. Homecomings Financial in the amount of \$3,192.72 overpayment of 2006 taxes. (PID # W145-999-0640-0100).

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7A. BID

*Motion made, seconded, and unanimously carried to **AWARD** Solicitation No. 2008-174 (North Park Drainage Channel Phase II) to J.A.R. Concrete, Inc. d/b/a J.A.R. Construction, Inc., for a total estimated amount of \$306,370.

Department: Engineering
Award to: J.A.R. Concrete, Inc. d/b/a J.A.R. Construction, Inc.
El Paso, TX
Base Bid: \$306,370
Account No.: 14200403 – 508027 – 29137 – PBE04ST122A
Funding Source: 2004 General Obligation Bonds
Total Estimated Award: \$306,370

It is requested that the City Manager of the City of El Paso be authorized to sign any contracts or other documents required to effectuate this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As part of the award of this contract, the City Engineer may, without further authorization from City Council, approve contract changes which are necessary for proper construction of the work and carrying out the intent of the design, which are in accordance with applicable law and which do not make changes to the unit price and increased funds are appropriated in the budget.

This is a low bid, unit-price contract.

The Departments of Financial Services, Purchasing Division, and Engineering recommend award as indicated to the lowest responsive, responsible bidder.

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7B. BID

Motion made, seconded, and unanimously carried to **AWARD** Solicitation No. 2008-177 (Pavo Real Park Improvements – 2007-CD) to EPCON, Inc., for a total estimated amount of \$108,365.77.

Department: Parks and Recreation
Award to: EPCON, Inc.
El Paso, TX
Base Bid: \$108,365.77
Account No.: 71150069 – 508027 – 10062 – G7133CD0040
Funding Source: Community Development Block Grant 33rd Year
Total Estimated Award: \$108,365.77

It is requested that the City Manager of the City of El Paso be authorized to sign any contracts or other documents required to effectuate this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As part of the award of this contract, the City Engineer may, without further authorization from City Council, approve contract changes which are necessary for proper construction of the work and carrying out the intent of the design, which are in accordance with applicable law and which do not make changes to the unit price and increased funds are appropriated in the budget.

This is a low bid, unit-price contract.

The Departments of Financial Services - Purchasing Division, and Parks and Recreation recommend award as indicated to the lowest responsive, responsible bidder.

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8A. – 8D INTRODUCTIONS

Motion made by Representative Ortega, seconded by Mayor Pro Tempore Byrd, and unanimously carried that the following Ordinance, having been introduced pursuant to Section 3.9 of the El Paso City Charter, be **ADVERTISED** for public hearing.

- A. An Ordinance amending Title 18 (Building and Construction), Chapter 18.10 (Residential Code), Section 18.10.310 (Appendix G, Swimming Pools, Spas, and Hot Tubs), of the El Paso City Code to establish standards for swimming pools, spas, and hot tubs by adding barrier requirements for residential swimming pools, spas, and hot tubs and entrapment protection for residential swimming pool and spa suction outlets; providing for a one year period to bring certain existing swimming pools, spas and hot tubs into compliance; repealing Ordinance 016867 adopted April 1, 2008, and Ordinance 016875 Changing effective dates of Ordinance 016867; with penalties not to exceed \$2,000 per day per violation as provided in section 18.02.107 of the El Paso City Code.

PUBLIC HEARING WILL BE HELD ON JULY 8, 2008, FOR ITEM 8A

- B. An Ordinance changing the zoning of all of Lots 25 and 26, Block 17, Franklin Heights, City of El Paso, El Paso County, Texas, from C-1 (Commercial) to RMU (Residential Mixed Use) and approving a Master Zoning Plan. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.
- C. An Ordinance granting Special Permit No. ZON08-00044 to allow for a parking reduction on the property described as Lots 25 and 26, Block 17, Franklin Heights, City of El Paso, El Paso County, Texas, pursuant to Section 20.14.070 Parking Reduction of the El Paso City Code. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.
- D. An Ordinance granting Special Permit No. ZON08-00045 to allow for a parking reduction and infill development for reduced front and side set backs on the property described as Lots 7 and 8, Block 32, Franklin Heights Addition, City of El Paso, El Paso County, Texas, pursuant to Section 20.14.070 Parking Reduction and 20.10.280 Infill Development of the El Paso City Code. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

PUBLIC HEARING WILL BE HELD ON JULY 22, 2008, FOR ITEMS 8B – 8D

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9. FINANCIAL SERVICES

Motion made by Mayor Pro Tempore Byrd, seconded by Representative Lilly, and unanimously carried to **AWARD** Solicitation No. 2008-162 (Carnegie Avenue – Street & Drainage Improvements) to Southwest Growth, Inc., for a total estimated amount of \$3,299,044.80.

Department:	Engineering	
Award to:	Southwest Growth, Corp. El Paso, TX	
Base Bid I:	\$1,890,975.05	Option 1: \$378,833.40
Base Bid II:	\$ 375,520.26	Option 2: \$327,738.60
Base Bid III:	\$ 171,430.00	
Base Bid IV:	\$ 14,950.00	
Base Bid V:	\$ 136,832.49	
Base Bid VI:	\$ 2,765.00	
Account No.:	993311117 – 508027 – 27263 – PCP06ST010	
Funding Source:	2006 Certificates of Obligation	
Total Estimated Award:	\$3,299,044.80	

It is requested that the City Manager of the City of El Paso be authorized to sign any contracts or other documents required to effectuate this award.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As part of the award of this contract, the City Engineer may, without further authorization from City Council, approve contract changes which are necessary for proper construction of the work and carrying out the intent of the design, which are in accordance with applicable law, and which do not make changes to the unit price and which are within the appropriate budget.

This is a low bid, unit-price contract.

The Departments of Financial Services, Purchasing Division, and Engineering recommend award as indicated to the lowest responsive, responsible bidder.

Mayor Cook and Representative Byrd commented.

Mr. Sam Rodriguez, Engineering Division Manager, commented.

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10. PUBLIC HEARING – DEVELOPMENT SERVICES

*Motion made, seconded, and unanimously carried to **POSTPONE** one week the public hearing on an Ordinance changing the zoning of the following real property described as: Parcel 1: all of Tract 4, J. Barker Survey No. 10, City of El Paso, El Paso County, Texas, be changed from M-3 (Unrestricted Manufacturing) to C-3 (Commercial) and imposing conditions; and, Parcel 2: all of Tracts 6 and 7, I.F. Harrison Survey No. 54 and Tract 3, J. Barker Survey No. 10, City of El Paso, El Paso County, Texas, be changed from R-3 (Residential), A-2 (Apartment) and M-1 (Light Manufacturing) to C-3 (Commercial) and imposing conditions; and, Parcel 3: a portion of Tracts 6 and 7, I.F. Harrison Survey No. 54, City of El Paso, El Paso County, Texas, be changed from R-3 (Residential) and A-2 (Apartment) to R-5

(Residential); and, Parcel 4: all of Tract 7, I.F. Harrison Survey No. 54, Tracts 3 and 3A, J. Barker Survey No. 10, and Tract 4F2B, A.F. Miller Survey No. 215, City of El Paso, El Paso County, Texas, be changed from M-1 (Light Manufacturing), R-3 (Residential), and A-2 (Apartment) to R-3A (Residential). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

Representative O'Rourke commented.

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ITEMS TAKEN TOGETHER:

11A.

ORDINANCE 16925

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO RIVER ELMS, LLC TO PLACE BENCHES AT BUS STOPS ON CITY RIGHTS OF WAY PURSUANT TO THE EL PASO CITY CODE; THE PENALTIES BEING AS PROVIDED IN SECTION 13.20.110 OF THE EL PASO CITY CODE.**

11B.

ORDINANCE 16926

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO ALTA VISTA CONSTRUCTION GROUP, L.L.C. TO PLACE BENCHES AT BUS STOPS ON CITY RIGHTS OF WAY PURSUANT TO THE EL PASO CITY CODE; THE PENALTIES BEING AS PROVIDED IN SECTION 13.20.110 OF THE EL PASO CITY CODE.**

11D.

ORDINANCE 16928

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING THE NON-EXCLUSIVE BUS BENCH FRANCHISE PREVIOUSLY GRANTED TO OTTO H. MASER, JR. BY ORDINANCE NUMBER 016795, TO REFLECT EL PASO BENCH ADS, LLC AS THE NEW FRANCHISEE; THE PENALTIES BEING AS PROVIDED IN SECTION 13.20.110 OF THE EL PASO CITY CODE.**

11E.

ORDINANCE 16929

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING THE NON-EXCLUSIVE BUS BENCH FRANCHISE PREVIOUSLY GRANTED TO BENCH ADS OF EL PASO, INC. BY ORDINANCE NUMBER 016793, TO REFLECT EL PASO BENCH ADS, LLC AS THE NEW FRANCHISEE; THE PENALTIES BEING AS PROVIDED IN SECTION 13.20.110 OF THE EL PASO CITY CODE.**

Representatives Quintana, Byrd, Ortega, Castro, and Acosta commented.

Ms. Joyce Wilson, City Manager, commented and Mr. Raymond Telles, Assistant City Attorney, gave legal advice.

Mr. Howard Goldberg, El Paso Bench Ads, commented.

Motion duly made by Representative Acosta, seconded by Mayor Pro Tempore Byrd, that the Ordinances be **ADOPTED, WITH ORDINANCE 16929 BEING REVISED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinances which when so done resulted as follows:

AYES: Representatives Lilly, Byrd, Acosta, Castro, Quintana, Ortega, and O'Rourke
NAYS: None
ABSENT: Representative Holguin

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinances, the same be and the same are hereby **ADOPTED, WITH ORDINANCE 16929 BEING REVISED.**

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11C.

ORDINANCE 16927

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING THE NON-EXCLUSIVE BUS BENCH FRANCHISE PREVIOUSLY GRANTED TO OLIVA MANUFACTURED HOME SALES, INC. D/B/A SOUTHWEST BENCH ADS BY ORDINANCE NUMBER 016796, TO REFLECT EL PASO BENCH ADS, LLC AS THE NEW FRANCHISEE; THE PENALTIES BEING AS PROVIDED IN SECTION 13.20.110 OF THE EL PASO CITY CODE.**

Representatives Quintana, Byrd, Ortega, Castro, and Acosta commented.

Ms. Joyce Wilson, City Manager, commented and Mr. Raymond Telles, Assistant City Attorney, gave legal advice.

Motion duly made by Representative Acosta, seconded by Mayor Pro Tempore 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, Castro, Quintana, and O'Rourke
NAYS: None
ABSTAIN: Representative Ortega
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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12A.

ORDINANCE 16930

The City Clerk read an Ordinance entitled: **AN ORDINANCE OF THE CITY OF EL PASO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED AND ANY OTHER NECESSARY DOCUMENTS AS REQUIRED FOR THE SALE AND CONVEYANCE AS RECOMMENDED BY THE EL PASO WATER UTILITIES FOR THE FOLLOWING DESCRIBED REAL PROPERTY TO G H DAIRY-EL PASO, THE SOLE AND HIGHEST BIDDER, SUCH LAND TOTALING APPROXIMATELY 9.635 ACRES OF LAND OUT OF A PORTION OF LOT 1, BLOCK 1, RIVERSIDE INTERNATIONAL INDUSTRIAL CENTER, CITY OF EL PASO, EL PASO COUNTY, TEXAS, LOCATED IN THE MISSION VALLEY AREA OF EL PASO BETWEEN PAN AMERICAN DRIVE AND SOUTHSIDE DRIVE.**

Mayor Cook and Representatives Ortega, O'Rourke, Byrd, Acosta, Quintana, Castro, and Lilly commented.

Ms. Joyce Wilson, City Manager, commented.

The following El Paso Water Utilities Public Service Board staff members commented:

1. Mr. Rudy Valdez, Consultant

2. Mr. Robert Andron, General Counsel
3. Mr. Jim Shelton, Land Management
4. Mr. Edmund Archuleta, President/Chief Executive Officer

1ST MOTION

Motion made by Representative Quintana to **POSTPONE** the item for one week. The motion died for **LACK OF A SECOND**.

2ND AND FINAL MOTION

Motion duly made by Representative Castro, seconded by Mayor Pro Tempore 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, Castro, and O'Rourke

NAYS: Representative Ortega

ABSTAIN: Representative Quintana

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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12B.

ORDINANCE 16931

The City Clerk read an Ordinance entitled: **AN ORDINANCE OF THE CITY OF EL PASO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED AND ANY OTHER NECESSARY DOCUMENTS AS REQUIRED FOR THE SALE AND CONVEYANCE AS RECOMMENDED BY THE EL PASO WATER UTILITIES FOR THE FOLLOWING DESCRIBED REAL PROPERTY TO EL PASO INDEPENDENT SCHOOL DISTRICT, SUCH LAND TOTALING APPROXIMATELY 14.7482 ACRES OF LAND OUT OF A PORTION OF SECTION 22, BLOCK 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILROAD SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, LOCATED IN NORTHEAST EL PASO NEAR PATRIOT FREEWAY AND SEAN HAGGERTY.**

Mayor Cook and Representatives Byrd, Castro, and Quintana commented.

Ms. Joyce Wilson, City Manager, commented.

The following El Paso Water Utilities Public Service Board staff members commented:

1. Mr. Robert Andron, General Counsel
2. Mr. Edmund Archuleta, President/Chief Executive Officer

Motion duly made by Representative Castro, seconded by Representative Quintana, 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:

AYES: Representatives Lilly, Acosta, Castro, Quintana, Ortega, and O'Rourke

NAYS: Representative Byrd

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, AS REVISED**.

12C.

ORDINANCE 16932

The City Clerk read an Ordinance entitled: **AN ORDINANCE OF THE CITY OF EL PASO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED AND ANY OTHER NECESSARY DOCUMENTS AS REQUIRED FOR THE SALE AND CONVEYANCE AS RECOMMENDED BY THE EL PASO WATER UTILITIES FOR THE FOLLOWING DESCRIBED REAL PROPERTY TO EL PASO ELECTRIC COMPANY, SUCH LAND TOTALING APPROXIMATELY 14.6275 ACRES OF LAND OUT OF A PORTION OF TRACT 1A, SECTION 11, BLOCK 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, LOCATED IN NORTHEAST EL PASO NEAR STAN ROBERTS SR. AVENUE.**

Representative Castro commented.

Mr. Edmund Archuleta, President/Chief Executive Officer of El Paso Water Utilities Public Service Board, commented.

Motion duly made by Representative Castro, seconded by Representative 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, Castro, Quintana, Ortega, and O'Rourke
- 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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13A.

ORDINANCE 16933

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE EL PASO CITY CODE TO DELETE CHAPTER 2.06 (BOND OVERVIEW ADVISORY COMMITTEE) IN ITS ENTIRETY.**

Representatives Quintana and Ortega commented.

Ms. Joyce Wilson, City Manager, and Ms Terry Quezada, Capital Improvement Program Administrator, commented.

Motion duly made by Representative Ortega, seconded by Mayor Pro Tempore 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, Castro, Quintana, Ortega, and O'Rourke
- 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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13B.

ORDINANCE 16934

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.88 (SCHEDULES), SECTION 12.88.030 (SCHEDULE III - PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS) OF THE EL PASO CITY CODE TO ADD MIRANDA COURT. THE PENALTY BEING AS PROVIDED IN SECTION 12.84.010 OF THE EL PASO CITY CODE.**

Mayor Cook and Representative Lilly commented.

Mr. Ted Marquez, Engineering Division Manager, commented.

Ms. Elizabeth Hernandez and Ms. Sandra Flores, citizens, commented.

Motion duly made by Representative Lilly, seconded by Mayor Pro Tempore 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, Castro, Quintana, Ortega, and O'Rourke

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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13C.

ORDINANCE 16935

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.88 (SCHEDULES), SECTION 12.88.200 (SCHEDULE XVII - RESTRICTIONS ON PARKING IN RESIDENTIAL DISTRICTS), ZONE K: NO PARKING 7:00 A.M. – 4:00 P.M., SCHOOL DAYS ONLY, OF THE EL PASO CITY CODE BY ADDING STONEHAVEN DRIVE. THE PENALTY BEING AS PROVIDED IN SECTION 12.84.010 (VIOLATION - PENALTY) OF THE EL PASO CITY CODE.**

Mr. Ted Marquez, Engineering Division Manager, commented.

Motion duly made by Representative Ortega, seconded by Mayor Pro Tempore 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, Castro, Quintana, Ortega, and O'Rourke

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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14. **ECONOMIC DEVELOPMENT**

*Motion made, seconded, and unanimously carried to **DELETE** the item on a Resolution authorizing that \$50,000 from the Tax Increment Reinvestment Zone No. 5 (TIRZ No. 5) Fund be transferred to the Façade Grant Program for its continuation as recommended by the TIRZ No. 5 Board.

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15A.

RESOLUTION

WHEREAS, Texas Gas Service Company, a division of ONEOK, distributes natural gas within the City Limits of the City of El Paso pursuant to a franchise granted to Southern Union Company dated as of February 22, 2000, and assigned to ONEOK, Inc. and is a gas utility;

WHEREAS, on May 23, 2008, Texas Gas Service Company filed an Interim Rate Adjustment to adjust the tariff for gas service within the City of El Paso specifying that the rate change should be effective on July 22, 2008;

WHEREAS, pursuant to the Gas Utility Regulatory Act, Texas Utilities Code Section 103.001, the City of El Paso has exclusive original jurisdiction over the rates, operations, and services of the Texas Gas Service Company within the City of El Paso;

WHEREAS, the City Council has determined that additional time and information is needed for it to study and/or to have its Public Utility Regulation Board study the proposed interim rate adjustment and the reasons therefore;

WHEREAS, pursuant to the Gas Utility Regulatory Act, Texas Utilities Code Section 104.301, the City of El Paso, as regulatory Authority, has the right to suspend the proposed interim rate adjustment for a period of 45 days after the proposed date the change would otherwise be effective;

WHEREAS, the City Council has determined that it is in the best interest of its citizens and ratepayers to suspend the interim rate adjustment; and

WHEREAS, the City Council finds that the City and its counsel and consultants require sufficient supporting documentation and explanation to review the request for an interim rate adjustment.

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

1. That the rate adjustment identified in the Interim Rate Adjustment filed by Texas Gas Service Company a division of ONEOK, Inc., on May 23, 2008, be and is hereby suspended for 45 days after the effective date specified in the filing.
2. That Texas Gas Service Company is hereby ordered to file with the City Clerk and Office of the City Attorney on or before July 22, 2008 complete working papers supporting all of its claimed cost of the investment in service for gas utility services as needed by the City's attorneys and consultants to conduct its analysis and make recommendations to the Council, including change in return on net investment, change in depreciation expense, change in ad valorem tax and change in federal income taxes to support the Company's request for an Interim Rate Increase.
3. That the City Manager shall so notify Texas Gas Service Company of the suspension and the order to submit working papers by having a copy of this Resolution delivered or mailed to the Vice President, West Texas Region.

4. That the City Attorney be authorized to engage outside counsel to represent the City on this matter and the City Manager be authorized to engage consultants to evaluate the filing.

Mayor Cook commented.

Mr. Norman Gordon, outside counsel, commented.

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

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15B.

R E S O L U T I O N

WHEREAS, on July 12, 2005, the City Council of the City of El Paso approved a Rate Agreement with El Paso Electric Company dated July 5, 2005 establishing the electric utility rates within the City of El Paso until 2010;

WHEREAS, pursuant to the Rate Agreement and applicable law, the City of El Paso maintains original jurisdiction over rates of El Paso Electric Company for rates charged within the City limits of the City of El Paso;

WHEREAS, El Paso Electric Company and El Paso Water Utilities have negotiated an extension and renewal of a Contract for Electric Power Service and Agreement for Interruptible Electric Service ("EPWU Interruptible Agreement") and an Electric Power Service Agreement for Critical Peak Pricing ("CCP Agreement") regarding the rates to be paid for electric utility services;

WHEREAS, the CCP Agreement contemplates a new Rate Schedule No. 11-TOU in order that El Paso Electric Company may charge the rates contemplated by the CCP Agreement, effective January 1, 2008;

WHEREAS, the EPWU Interruptible Agreement contemplates different terms (fewer hours of interruption) than the standard terms provided in Rate Schedule No. 38, which requires the approval of a new Rate Schedule No. 38-MP, effective July 1, 2008;

WHEREAS, El Paso Electric Company has requested that the El Paso City Council approve such changes to the rates charged under the rate tariffs;

WHEREAS, the City Council finds that the requested changes arise from a negotiated agreement between El Paso Electric Company and El Paso Water Utilities and are expected to provide lower electricity costs for El Paso Water Utilities; and

WHEREAS, the City Council finds that the approval of these rate changes will not affect other provisions of the Rate Agreement or adversely affect any other customer classes or rates.

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

1. That pursuant to the Rate Agreement between the City of El Paso and El Paso Electric Company dated July 5, 2005, El Paso Electric is hereby authorized to vary the terms of Rate Schedule No. 38 as set forth in a new Rate Schedule No. 38-MP, Interruptible Service for Municipal Pumping (effective July 1, 2008), attached hereto as Exhibit A, in order to effectuate the extension and renewal of Contract for Electric Power Service and Agreement for Interruptible Electric Service between El Paso Electric Company and El Paso Water Utilities.

2. That a new Rate Schedule No. 11-TOU (effective January 1, 2008 for those accounts with time of use metering currently installed) be added as set forth as attached hereto in Exhibit B, in order to effectuate the El Paso Electric Company's Electric Power Service Agreement for Critical Peak Pricing agreement with the El Paso Water Utilities.
3. That nothing in this Resolution or approval shall operate or be construed to be a precedent or approval of the concept or implementation of Critical Peak Pricing for any other Customer or Customer Class.

Mayor Cook and Representative Quintana commented.

Mr. Norman Gordon, outside counsel, and Mr. Edmund Archuleta, President/Chief Executive Officer of El Paso Water Utilities Public Service Board, commented.

Motion made by Mayor Pro Tempore Byrd, seconded by Representative O'Rourke, and unanimously carried to **APPROVE** the Resolution.

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15C. CITY MANAGER

City Manager's report of current events and issues:

Staff update on open space and arroyo preservation initiatives.

Mr. Alan Shubert, City Engineer, presented a PowerPoint presentation (on file in the City Clerk's office).

Mayor Cook and Representatives Lilly, O'Rourke, and Byrd commented.

The following City staff members commented:

1. Ms. Joyce Wilson, City Manager
2. Ms. Patricia Aduato, Deputy City Manager of Development and Infrastructure Services
3. Ms. Shamori Whitt, Open Space Plan Project Coordinator for Parks and Recreation

Mr. Charlie Wakeem and Mr. Kevin von Finger, citizens, commented.

NO ACTION was taken on the item.

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ADDITION TO THE AGENDA

1. RESOLUTION

*Motion made, seconded, and unanimously carried to **DELETE** the item on a Resolution authorizing that the Purchasing Manager be authorized to notify Ricardo Lopez d/b/a Tirayan Construction, that the City is terminating Contract No. 2008-185 pursuant to the provisions and requirements of Section 6.9.1 of the Contract due to default of the Contractor, that the termination shall be effective as of July 1, 2008, and that the City Manager and City Attorney be authorized to take all appropriate action and pursue all available remedies.

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

APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk