

JOHN F. COOK
MAYOR



JOYCE WILSON
CITY MANAGER

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

**REGULAR COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
JULY 5, 2011
8:30 A.M.**

The City Council met in regular session at the above place and date. Meeting was called to order at 8:32 a.m. Mayor John F. Cook present and presiding and the following Council Members answered roll call: Susannah M. Byrd, Emma Acosta, Michiel R. Noe, Steve Ortega, and Cortney Carlisle Niland. Late arrivals: Ann Morgan Lilly at 8:35 a.m. during Executive Session deliberations, Carl L. Robinson, at 8:37 a.m. during Executive Session deliberations and Eddie Holguin, Jr. at 8:51 a.m. during Executive Session deliberations. The invocation was given by Police Chaplain Cliff Barnes, followed by the Pledge of Allegiance to the Flag of the United States of America.

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MAYOR'S PROCLAMATIONS

- 1. National Parks and Recreation Month**
- 2. Team Alchemy Karate Academy Month**
- 3. Border Business Awareness Week**

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. Jerry Thiedt
 2. Mr. Steven Strumer
 3. Ms. Lisa Turner
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Motion made by Representative Acosta, seconded by Representative Byrd, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 8:32 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.076 to discuss any of the following:

Section 551.071 CONSULTATION WITH ATTORNEY
 Section 551.072 DELIBERATION REGARDING REAL PROPERTY
 Section 551.073 DELIBERATION REGARDING PROSPECTIVE GIFTS
 Section 551.074 PERSONNEL MATTERS
 Section 551.076 DELIBERATION REGARDING SECURITY DEVICES
 Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

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

NOT PRESENT FOR THE VOTE: Representatives Lilly, Robinson, and Holguin

Motion made by Representative Robinson, seconded by Representative Byrd, and unanimously carried to adjourn the Executive Session at 10:03 a.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

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EX1. Application of El Paso Electric Company for Approval to Revise its Energy Efficiency Cost Recovery Factor and Request to Establish Revised Goals and Cost Caps before the Public Utility Commission of Texas, Docket No. 39376 and SOAH No. 473-11-5143. (551.071) [City Attorney's Office, Bertha Ontiveros, (915) 541-4550]

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Ortega, and carried to grant the authority to the City Attorney to enter into a settlement regarding the Application of El Paso Electric Company for Approval to Revise its Energy Efficiency Cost Recovery Factor and Cost Caps before the Public Utility Commission of Texas, Docket No. 39376 and SOAH No. 473-11-5143.

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

Ms. Lisa Turner, citizen, commented.

Mr. Norman Gordon, Outside Utility Counsel, commented.

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EX2. Legal issues relating to the investigations into power outages in El Paso Electric's service area in February 2011 including investigations before the Public Utility Commission of Texas, PUC Docket No. 39134, the Federal Energy Regulatory Commission, Western Electricity Coordinating Council and New Mexico Public Regulation Commission and North American Electric Reliability Corporation. (551.071)

Ms. Lisa Turner, citizen, commented.

Mr. Norman Gordon, Outside Utility Counsel, commented.

NO ACTION was taken on this item.

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EX3. Texas Gas Service Company, a Division of ONEOK, Inc. v. Railroad Commission of Texas, Cause No. D-1-GN-11-000889, 201 Judicial Division; and Petition for Review of Ratesetting Action of the City of El Paso before the Railroad Commission of Texas regarding Rate Case Expenses, Gas Utility Docket No. 10016 and Pipeline Expense Rider, Gas Utility Docket No. 10049, both severed from Gas Utility Docket No. 9988. (551.071)

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd, and carried to grant the authority to the City Attorney to reject the settlement proposal on behalf of the City of El Paso regarding Texas Gas Service Company, a Division of ONEOK, Inc. v. Railroad Commission of Texas, Cause No. D-1-GN-11-000889, 201 Judicial Division; and Petition for Review of Ratesetting Action of the City of El Paso before the Railroad Commission of Texas regarding Rate Case Expenses, Gas Utility Docket No. 10016 and Pipeline Expense Rider, Gas Utility Docket No. 10049, both severed from Gas Utility Docket No. 9988.

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

Ms. Lisa Turner, citizen, commented.

Mr. Norman Gordon, Outside Utility Counsel, commented.

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EX4. 8-S-39: Mazie's L.P. and Whitney Properties, L.P. v. City of El Paso, Cause No. 2008-2582, In the 327th District Court, El Paso County, Texas. (551.071)

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Robinson, and carried that the CITY OF EL PASO authorizes the City Attorney to take any and all action necessary, both affirmative and defensive, as necessary, regarding the lawsuit styled Mazie's, L.P., *et al.* v. The City of El Paso, Texas; cause number 2008-2582, in the 327th Judicial District Court, El Paso County, Texas. This Motion is intended to grant broad authority to the City Attorney to take any action necessary to address these matters, including but not limited to, the initiation of and response to, litigation, complaints and any other administrative or judicial proceeding or process, and the retention of outside legal counsel to represent the CITY OF EL PASO in this matter.

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

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EX5. Waste Connections, Inc. v. City of El Paso, 10-C-50. (551.071)

NO ACTION was taken on this item.

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CONSENT AGENDA

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd, and unanimously carried to **APPROVE, AS REVISED**, all matters listed under the Consent Agenda unless otherwise noted. (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {*}).

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

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1. APPROVAL OF MINUTES

*Motion made, seconded, and unanimously carried to **APPROVE** the Minutes for the Regular City Council Meeting of June 28, 2011.

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2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

NO ACTION was taken on this item.

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3A.

***RESOLUTION**

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

That the City Manager be authorized to sign a Concession Agreement between the City of El Paso and NewZoom, Inc. dba ZoomSystems to operate automated retail stores, ZoomShop(s), for the sale of consumer electronics in the terminal building of the El Paso International Airport.

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3B. **ENVIRONMENTAL SERVICES**

Motion made, seconded, and unanimously carried to **DELETE** a Resolution authorizing the City Manager to sign Amendment #2 of the Local Air Program grant contract No. 582-10-90258 (the "Amendment") by and between the City of El Paso and the Texas Commission on Environmental Quality ("TCEQ"), in the amount of \$321,074 to allow for services to continue for the period of September 1, 2011 through August 31, 2012, to conduct compliance investigations on behalf of TCEQ at permitted air sources including, but not limited to, gasoline stations, paint shops, auto body shops and cabinet shops. City matching funds are required in the amount of \$105,354.42. The City Manager is authorized to approve necessary budget transfers to designate the required matching funds.

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3C. **FINANCIAL SERVICES**

Motion made, seconded, and unanimously carried to **DELETE** a Resolution authorizing the Mayor of the City of El Paso to extend the waiver of PILOT funds from the Housing Authority of the City of El Paso until November 1, 2023, in accordance with the provisions of the 1972 Cooperative Agreement and subsequent 1978 amendment.

Representative Byrd commented.

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3D.

***RESOLUTION**

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

That the City Manager be authorized to sign a lease between Dr. Alvaro Medina, DVM and the City of El Paso for use of the City's Department of Public Health vehicle #1118, license plate number 817 448 and VIN 1FCMF53S710A05496 as a spay/neuter van to be used to offer spay and neuter procedures, for an initial one year term, with the City's option of two (2) consecutive one (1) year extensions, in exchange for a minimum number of low cost spay and neuter procedures and the resulting reduction in the feral dog and cat population in the City of El Paso.

Mayor Cook and Representatives Acosta and Holguin commented.

Ms. Joyce Wilson, City Manager and Mr. Michael Hill, Public Health Director, commented.

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3E.

***RESOLUTION**

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

That the City Council ratifies the grant of a license to The Humane Society of El Paso (“Contractor”) from the City of El Paso (“City”) for Contractor’s use of space at the City’s Animal Control Facility at 5001 Fred Wilson Road, El Paso, Texas, pursuant to the terms and conditions attached hereto as Exhibit “A”, entitled Solicitation No. 2011-214R, “On-site Animal Adoption Services”, award dated June 7, 2011, for an initial two-year term and no monetary compensation from the City to Contractor, for the purpose of adopting out shelter-supplied dogs and cats to suitable pet owners and reducing the number of dogs and cats euthanized at the City’s animal shelter.

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4. BOARD RE-APPOINTMENT

*Motion made, seconded, and unanimously carried to **RE-APPOINT** Charles S. Wakeem to the Open Space Advisory Board by Representative Cortney Carlisle Niland, District 8.

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5A. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** John Karlsruher to the Districting Commission by Representative Ann Morgan Lilly, District 1.

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5B. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Tania M. Chozet to the Museum and Cultural Affairs Advisory Board by Representative Steve Ortega, District 7.

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6. APPLICATIONS FOR TAX REFUNDS

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

- A. C & R Distributing in the amount of \$16,446.91 overpayment of 2010 taxes. (PID #I007-999-1149-834).
- B. David Goldsmith in the amount of \$2,517.58 overpayment of 2008 taxes. (PID #E049-999-0220-0200).
- C. First American Title in the amount of \$5,861.95 overpayment of 2010 taxes. (PID #O415-999-0000-4300).
- D. First American Title in the amount of \$5,342.68 overpayment of 2010 taxes. (PID #P358-999-0050-1700).
- E. Litton Loan Servicing LP/Corelogic in the amount of \$3,857.40 overpayment of 2010 taxes. (PID #P654-999-0780-9974).
- F. Van E. Scott in the amount of \$14,485.38 overpayment of 2009 taxes. (PID #R700-999-0010-0100).
- G. Bertha Reza in the amount of \$6,760.73 overpayment of 2010 taxes. (PID #S091-999-0010-5000).

- H. C & R Distributing in the amount of \$29,494.42 overpayment of 2010 taxes. (PID #S829-999-0010-0300).
- I. LPS c/o Select Portfolio Servicing, Inc., in the amount of \$2,799.50 overpayment of 2010 taxes. (PID #T287-999-0600-0500).
- J. First American Title Co., in the amount of \$4,604.92 overpayment of 2010 taxes. (V655-999-0200-0700).
- K. HCA in the amount of \$33,622.33 overpayment of 2009 taxes. (PID #V893-999-2650-3700).
- L. Indymac in the amount of \$5,567.21 overpayment of 2010 taxes. (PID #X185-999-0000-3948).
- M. Van E. Scott in the amount of \$8,897.93 overpayment of 2009 taxes. (PID #X580-999-1310-0720).
- N. HSBC in the amount of \$2,946.41 overpayment of 2010 taxes. (PID #W144-999-0120-1100).
- O. KBS Realty, LP in the amount of \$16,127.09 overpayment of 2008 taxes. (PID #P395-999-0040-1000).

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7A. BIDS

*Motion made, seconded, and unanimously carried to **AWARD** Solicitation No. 2011-219 for the Chihuahuita Park Improvements to Mimbela Contractors, Inc. for a total estimated amount of \$151,800.

Department:	Engineering and Construction Management
Award to:	Mimbela Contractors, Inc.
Base Bid:	\$151,800
Total Estimated Completion:	\$151,800
Funding Source:	Community Development Block Grant (CDBG) 36 th Year

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 a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

This is a low bid, unit-price contract. The Engineering and Construction Management and Parks Department recommend award as indicated to the lowest responsible bidder.

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7B. BIDS

*Motion made, seconded, and unanimously carried to **AWARD** Solicitation No. 2011-221 for the Blackie Cheshier Handball Court to Smart Con, LLC, for a total estimated amount of \$69,059.77.

Department:	Engineering and Construction Management
Award to:	Smart Con, LLC
Base Bid:	\$69,059.77
Total Estimated Completion:	\$69,059.77
Funding Source:	Community Development Block Grant (CDBG) 36th Year

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 a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

This is a low bid, unit-price contract. The Engineering and Construction Management Department recommends award as indicated to the lowest responsible bidder.

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8. INTRODUCTIONS

Motion made by Representative Ortega, seconded by Representative Acosta, and unanimously carried that the following Ordinances, having been introduced pursuant to Section 3.9 of the El Paso City Charter, be **ADVERTISED** for public hearing:

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

8A. An Ordinance amending the 2025 Proposed Thoroughfare System as detailed in the Map Atlas of The Plan For El Paso and its related documents as originally approved by El Paso City Council in 1999, and as subsequently amended, to delete a portion of a proposed east-west minor arterial from Remcon Circle to the proposed extension of Belvidere Street, and to realign the east-west minor arterial and the proposed extension of Belvidere Street to connect from Mesa Street to Resler Drive.

PUBLIC HEARING WILL BE HELD ON JULY 12, 2011, FOR ITEM 8A

8B. An Ordinance granting Special Permit No. PZST11-00006, to allow for infill development and a parking reduction on the property described as all of the North ½ of Lots 14, 15, and 16, Block 57, Supplemental Map No. 1, East El Paso Addition, City of El Paso, El Paso County, Texas, pursuant to Section 20.04.320 of the El Paso City Code. The penalty being as provided for in Chapter 20.24 of the El Paso City Code.

8C. An Ordinance changing the zoning of all of Tract 5, Block 14, Upper Valley Surveys, City of El Paso, El Paso County, Texas from R-2 (Residential) to G-MU (General-Mixed Use). The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

PUBLIC HEARING WILL BE HELD ON JULY 26, 2011, FOR ITEMS 8B – 8C

9.

ORDINANCE 17598

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING SPECIAL PERMIT NO. ZON11-00021, TO ALLOW FOR INFILL DEVELOPMENT AND A PARKING REDUCTION ON THE PROPERTY DESCRIBED AS LOTS 15 AND 16, BLOCK 17, FRANKLIN HEIGHTS ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.320 OF THE EL PASO CITY CODE AND REPEALING SPECIAL PERMIT ZON09-00074. THE PENALTY BEING AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

Mr. Philip Etiwe, Development Review Manager, presented a PowerPoint presentation (copy on file in City Clerk’s office).

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

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

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

Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **ADJOURN** this meeting at 10:41 a.m.

APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk