

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 15, 2008
8:30 A.M.**

The City Council met in regular session at the above place and date. Meeting was called to order at 8:34 a.m. Mayor John F. Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Susannah M. Byrd, Emma Acosta, Melina Castro, Rachel Quintana, and Steve Ortega. Late arrivals: Eddie Holguin, Jr. and Beto O'Rourke at 8:35 a.m. during Executive Session deliberations. 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. **TITLE IX – 36TH ANNIVERSARY**
2. **EL PASO YOUTH SYMPHONY ORCHESTRA MONTH**

RECOGNITION

**ANA B. HINOJOSA, DIRECTOR OF FIELD OPERATIONS (DFO) FOR THE EL PASO FIELD OFFICE,
U.S. CUSTOMS AND BORDER PROTECTION**

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. Steven Strumer
2. Mr. Jerry Thiedt

1ST MOTION

Motion made by Representative Lilly, seconded by Representative Ortega, and unanimously carried to **SUSPEND THE RULES OF ORDER** to allow an additional speaker to address the Council after the sign-up period.

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Motion made by Representative Ortega, seconded by Mayor Pro Tempore Byrd, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 8:35 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 Holguin and O'Rourke

Motion made by Representative Lilly, seconded by Mayor Pro Tempore Byrd, and unanimously carried to adjourn the Executive Session at 9:28 a.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

NOT PRESENT FOR THE VOTE: Representative O'Rourke

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EX1. Discussion and action regarding the legal issues and options for the City pertaining to the property located at 118 Northwind. (551.071)

1ST MOTION

Motion made by Representative Ortega, seconded by Representative Lilly, and unanimously carried to **SUSPEND THE RULES OF ORDER** to allow an additional speaker to address the Council after the sign-up period.

2ND MOTION

Motion made by Representative Lilly, seconded by Mayor Pro Tempore Byrd, and unanimously carried to **RETIRE** into **EXECUTIVE SESSION** at 10:21 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 (Consultation with Attorney).

3RD AND FINAL MOTION

Motion made by Representative Castro, seconded by Representative Holguin, and unanimously carried to **ADJOURN** the Executive Session at 10:54 a.m. and **RECONVENE** the meeting of the City Council.

NOT PRESENT FOR THE VOTE: Representative O'Rourke

Mayor Cook and Representatives O'Rourke, Castro, Lilly, and Holguin commented.

Ms. Joyce Wilson, City Manager, commented and Mr. Charlie McNabb, City Attorney, gave legal advice.

The following members of the public commented:

- 1. Ms. Jimmie Wolslager
- 2. Mr. Mario Paz
- 3. Ms. Gina Cordova
- 4. Ms. Linda Escadea
- 5. Ms. Debbie Salome
- 6. Ms. Susie Rueda
- 7. Mr. Steven Wolslager

NO ACTION, other than the above procedural Motions, was taken on the item.

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EX2. Discussion regarding the following lawsuits entitled Ray E. Gilbert, Jr., Joe A. Dominguez, Charles P. Cavretta, M.D. vs. City of El Paso and El Paso Water Utilities Public Service Board; Cause No. 2008-2030. (551.071)

NO ACTION was taken on the item.

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EX3. El Paso Apartment Association, et al vs. City of El Paso and Edmund G. Archuleta in his Official Capacity as President and Chief Executive Officer of the El Paso Water Utilities Public Service Board; Cause No. EP-08-CA-0145. (551.071)

NO ACTION was taken on the item.

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CONSENT AGENDA

Motion made by Mayor Pro Tempore Byrd, seconded by Representative Lilly, 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, Holguin, Ortega, and O'Rourke

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 July 8, 2008, and the Special City Council Meeting for July 9, 2008 (Budget Hearings).

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2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

NO ACTION was taken on this item.

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3A.

***RESOLUTION**

That the City Manager be authorized to sign a Contract of Sale between the City of El Paso and EP Park Hills II, LTD, a Texas Limited Partnership, for the purchase of

a 0.355 acre parcel of land, more or less, being a portion of Tract 1, H.G. Foster Survey No. 258, City of El Paso, El Paso County, Texas,

for the Ojo de Agua Channel Project.

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3B. RESOLUTION

*Motion made, seconded, and unanimously carried to **DELETE** the item on a Resolution that the City Council approves and adopts the attached Exhibit A, Facility Rental Policy, the attached Exhibit B, Library Use Priorities and Fee Schedule for the El Paso Public Library, and the attached Exhibit C, El Paso Public Library Meeting Room Policy, for the purposes of establishing policy and fees for use of the El Paso Public Library buildings by individuals and entities and waiving fees for events held by organizations such as the Friends of the Library for the purpose of supporting and promoting the Library and Library events, fundraising, or presenting educational programs benefiting the Library. The Facility Rental Policy may be used as the special events use agreement and may be approved by the Director of the El Paso Public Library.

Representatives Ortega and Byrd commented.

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3C.

***RESOLUTION**

That the City of El Paso accepts the deeds for the following parcels for the Singh Road extension:

- Parcel 1: A 0.252-acre parcel, more or less, out of Tract 10, Block 49, Ysleta Grant Surveys, in the City of El Paso, El Paso County Texas, according to a survey made by El Paso County, Texas;
- Parcel 2: A 0.014-acre parcel, more or less, out of Lot 43, Singh Addition, Unit 1 in the City of El Paso, El Paso County Texas, according to the Plat thereof of record in Volume 15, Page 57, Plat Records of El Paso, El Paso County, Texas;
- Parcel 3: A 0.046-acre parcel, more or less, out of Tract 14-D-2, Block 49, Ysleta Grant Survey, also known as 9248 Socorro, in the City of El Paso, El Paso County, Texas;
- Parcel 4: A 0.030-acre parcel, more or less, out of Tract 14-D, Block 49, Ysleta Grant Survey, in the City of El Paso, El Paso County, Texas;
- Parcel 5: A 0.025-acre parcel, more or less, out of Tract 14-F, Block 49, Ysleta Grant Survey, in the City of El Paso, El Paso County, Texas, and
- Parcel 6: A 0.049-acre parcel, more or less, out of Tract 14-H and a portion of 14-H1, Block 49, Ysleta Grant Survey, in the City of El Paso, El Paso County, Texas.

Representative Holguin commented.

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4. BOARD RE-APPOINTMENT

*Motion made, seconded, and unanimously carried to **RE-APPOINTMENT** Rigoberto Mendez to the Zoning Board of Adjustment by Representative Emma Acosta, District 3.

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5A. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** William Ricardo Suarez to the Historic Landmark Commission by Mayor John F. Cook.

5B. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** James R. Ratcliff to the Photographic Traffic Signal Enforcement System (PTSES) Advisory Board by Representative Rachel Quintana, District 5.

5C.

***RESOLUTION**

WHEREAS, the Housing Finance Corporation Act, Chapter 394 Local Government Code authorizes the creation of a Housing Finance Corporation, and

WHEREAS, the City of El Paso has approved the incorporation of the El Paso Housing Finance Corporation pursuant to the Housing Finance Corporations Act, which incorporation took place in 1979, and

WHEREAS, the Articles of Incorporation and the Articles of Amendment of the El Paso Housing Finance Corporation provide for appointment of members of the Board of Directors to be appointed by written resolution of the governing body of the City of El Paso, Texas, and

WHEREAS, the term of Vivian Rojas expired on November 6, 2007 and this appointment is being made to fill the vacancy.

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

That Jose Luis Carbonell is appointed to the Board of Directors of the El Paso Housing Finance Corporation to fill the term that expired November 6, 2007.

6. APPLICATIONS FOR TAX REFUND

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

- A. Pebble Hills Plaza in the amount of \$2,678.59 overpayment of 2006 taxes. (PID #C050-999-2660-4900).
- B. FIS Tax Service in the amount of \$5,757.85 overpayment of 2007 taxes. (PID #C340-999-1810-0200).
- C. FIS Tax Service in the amount of \$3,820.62 overpayment of 2006 taxes. (PID #E073-999-000S-2300).
- D. FIS Tax Service in the amount of \$15,394.20 overpayment of 2007 taxes. (PID #F609-999-0110-2700).
- E. Dr. Paschal or Margaret IKE in the amount of \$3,024.63 overpayment of 2007 taxes. (PID #P481-999-0270-0300).
- F. Dr. Paschal or Margaret IKE in the amount of \$3,565.75 overpayment of 2007 taxes. (PID #P654-999-0780-0100).

- G. FIS Tax Services on behalf of Pioneer Bank in the amount of \$4,730.56 overpayment of 2007 taxes. (PID #585-000-0190-1900).
- H. Dr. Paschal or Margaret IKE in the amount of \$3,013.45 overpayment of 2007 taxes. (PID #P654-999-0780-2400).
- I. CitiMortgage in the amount of \$4,675.90 overpayment of 2007 taxes. (PID #S814-999-0120-1600).
- J. FIS Tax Services in the amount of \$3,076.64 overpayment of 2007 taxes. (PID #V893-999-5420-0200).
- K. Mortgage Service Center in the amount of \$3,275.84 overpayment of 2007 taxes. (PID #V893-999-5490-4300).

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7. PURCHASING REQUESTS TO ISSUE PURCHASE ORDERS, ETC.

*Motion made, seconded, and unanimously carried to **REJECT** the bid submitted for Solicitation No. 2008-192 (Armored Car Services – Streets & Sun Metro). Financial Services and the Street Department request that the bid be rejected because it exceeded budgeted appropriations. This item will be re-bid.

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8. INTRODUCTION

Motion made by Mayor Pro Tempore Byrd, seconded by Representative Ortega, 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.

An Ordinance changing the zoning of the following real property described as: Parcel 1: a portion of Section 27, Block 79, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, be changed from P-R I (Planned Residential I) to C-2 (Commercial) and imposing conditions; and, Parcel 2: a portion of Section 27, Block 79, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, be changed from P-R I (Planned Residential I) to C-2 (Commercial), and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

PUBLIC HEARING WILL BE HELD ON AUGUST 5, 2008, FOR ITEM 8

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ITEMS TAKEN TOGETHER:

9A. FINANCIAL SERVICES

Discussion and action on authorizing the City Manager to sign a tax-exempt lease-purchase agreement with Banc of America Public Capital Corp ("BAPCC") in a principal amount not to exceed \$9,767,054 to finance the energy-efficiency improvements for the City of El Paso and the El Paso Convention Center. It is also requested that the City Manager of the City of El Paso be authorized to execute any and all necessary documents relating to this lease-purchase agreement which are necessary to carry out the intent of this agreement.

9B. FINANCIAL SERVICES

Discussion and action that the City exercises its option to initiate a guaranteed performance contract through Solicitation No. 2007-073R (City-Wide Energy and Operational Savings Program) with Johnson Controls, Inc. pursuant to the provisions of the award approved by City Council on August 28, 2007.

Department: General Services
Award to: Johnson Controls, Inc.
Irving TX
Items: All
Funding Source: State Energy Conservation Office (SECO) - \$5,000,000
Banc of America Public Capital Corp Lease - \$9,767,054
Total Est. Award: \$14,767,054

As a part of this award, upon the review of the City Attorney, the Director of General Services 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.

Additionally, it is requested that the City Attorney’s Office review and that the City Manager be authorized to execute any related contract documents and agreements necessary to effectuate this award.

Mr. Jeff Belles, Director of General Services, presented a PowerPoint presentation (on file in the City Clerk’s office).

Mayor Cook and Representatives Byrd, Castro, Ortega, Holguin, and Acosta commented.

The following City staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Ms. Bertha Ontiveros, Assistant City Attorney, gave legal advice.
- 3. Ms. Carmen Arrieta-Candelaria, Chief Financial Office of Financial Services

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

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9C. FINANCIAL SERVICES

Motion made by Mayor Pro Tempore Byrd, seconded by Representative Lilly, and unanimously carried to **AWARD** Solicitation No. 2008-067 (Janitorial Services - City Hall, El Paso Museum of History, and Northwest Corral) to The Eagle Janitorial Service for a total amount of \$759,848.43.

Department: General Services
Award to: The Eagle Janitorial Service
El Paso, Texas
Items: All
Estimated Amount: \$ 57,061.11 (3 months)
\$247,610.64 (12 months)
\$455,176.68 (21 months)
Option: 2 Years
Account No.: 31010326 – 502206 - 01101

31010327 – 502206 - 01101
Funding Source: General Services Department, Building Maintenance Division
Total Est. Award: \$759,848.43

This is a 36-month requirements type contract.

The Departments of Financial Services, Purchasing Division, and General Services recommend award to The Eagle Janitorial Service, the vendor offering the best value bid.

NOT PRESENT FOR THE VOTE: Representatives Castro and Quintana

Representative Ortega commented.

Mr. Terrence Freiburg, Purchasing Manager, commented.

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10A.

ORDINANCE 16939

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF LOTS 17 TO 20, BLOCK 3, MIRAFLORES ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM A-3 (APARTMENT) TO A-O (APARTMENT-OFFICE) AND IMPOSING CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

Representative O'Rourke commented.

Mr. Mathew McElroy, Deputy Director of Planning, commented.

Ms. Martha Maldonado, President of the Chamizal Neighborhood Association, commented.

1ST MOTION

Motion made by Mayor Pro Tempore Byrd, seconded by Representative Holguin, and unanimously carried to **SUSPEND THE RULES OF ORDER** to allow an additional speaker to address the Council after the sign-up period.

NOT PRESENT FOR THE VOTE: Representatives Acosta, Castro, and Quintana

Motion duly made by Representative O'Rourke, 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, Castro, Quintana, Holguin, Ortega, and O'Rourke

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Acosta

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

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10B.

ORDINANCE 16940

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF A PORTION OF LOTS 52 AND 53, SAN JOSE ADDITION REPLAT, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (RANCH AND FARM) TO R-2 (RESIDENTIAL). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

Mr. Mathew McElroy, Deputy Director of Planning, presented a PowerPoint presentation (on file in the City Clerk’s office).

Representative Ortega commented.

Mr. Ignacio Alarcon, citizen, 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, Holguin, Ortega, and O’Rourke
NAYS: None

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

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10C.

ORDINANCE 16941

The City Clerk read an Ordinance entitled: **AN ORDINANCE VACATING A PORTION OF DENVER STREET (70’ WIDE PUBLIC RIGHT-OF-WAY), CITY OF EL PASO, EL PASO COUNTY, TEXAS.**

Mr. Mathew McElroy, Deputy Director of Planning, presented a PowerPoint presentation (on file in the City Clerk’s office).

Motion duly made by Representative O’Rourke, 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, Castro, Quintana, Holguin, Ortega, and O’Rourke
NAYS: None

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

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11.

RESOLUTION

That the Mayor be authorized to sign a First Amendment to an Interlocal Agreement by and between the City of El Paso and the El Paso County Community College District, passed and approved May 22, 2007, to allow the El Paso County Community College District to construct the parking lot at the northwest campus and the City contribute to the costs an amount not to exceed one million dollars.

Mr. Sam Rodriguez, Engineering Division Manager, presented a PowerPoint presentation (on file in the City Clerk's office).

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

Ms. Joyce Wilson, City Manager, and Ms. Nanette Smejkal, Director of Parks and Recreation, commented.

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

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

NAYS: Representative Holguin

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12.

RESOLUTION

WHEREAS, on June 26, 2007, the City Council for the City of El Paso adopted a Final Action Plan for 2007-2008 for the Consolidated Plan 2005-2010, including the 33rd Year (2007-2008) Community Development Block Grant (CDBG) Program, and on the same date authorized the City Manager to sign and submit to the United States Department of Housing and Urban Development (HUD) the Annual Action Plan (2007-2008) and all certifications contained therein; and

WHEREAS, the City Council, based on the recommendation of the Director of the Community and Human Development Department and Department staff, now desires to amend the Annual Action Plan (2007-2008) and 33rd Year (2007-2008) CDBG Program Budget by adding one homeownership assistance activity; and

WHEREAS, on June 12, 2008, the City of El Paso published in the El Paso Times public notice and allowed a 30-day public comment period regarding the proposed amendment to the Annual Action Plan (2007-2008) and 33rd Year (2007-2008) CDBG Program Budget and City Council has duly considered public comment, if any; and

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

- 1. That the Annual Action Plan (2007-2008) and 33rd Year (2007-2008) CDBG Program Budget is hereby amended as follows:

The new homeownership assistance activity, Affordable Housing Credit Union Service Organization (AHCUSO) – Individual Development Account (IDA) Program - \$125,000 is added; to match savings of a minimum of 112, low income, first-time homebuyer families towards the purchase of a home in the El Paso area; and

- 2. That the City Manager be authorized to sign any agreements or related documents upon approval by the City Attorney's Office and Director of Community and Human Development Department and to take any actions necessary to accomplish the intent of this resolution, including the necessary budget transfers and notifying HUD of said Annual Action Plan amendment.

Representative Byrd commented.

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

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

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Motion made by Representative Ortega, seconded by Representative Lilly, and unanimously carried to **ADJOURN** this meeting at 12:26 p.m.
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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk