

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
NOVEMBER 1, 2011
8:30 A.M.

The City Council met in regular session at the above place and date. Meeting was called to order at 8:30 a.m. Mayor John F. Cook present and presiding and the following Council Members answered roll call: Emma Acosta, Carl Robinson, Michiel R. Noe, and Cortney Carlisle Niland. Late arrivals: Steve Ortega at 8:33 a.m., Ann Morgan Lilly at 8:36 a.m., Susannah M. Byrd at 8:42 a.m., and Eddie Holguin, Jr. at 8:47 a.m. during the Executive Session. The invocation was given by Chaplain Lisle Davis, followed by the Pledge of Allegiance to the Flag of the United States of America.

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MAYOR'S PROCLAMATIONS

1. EL PASO SCOTTISH RITE APPRECIATION DAY
2. AGING AND DISABILITY RESOURCES CENTER OF EL PASO AND FAR WEST TEXAS DAY
3. PROFESSOR T. ANDRÉ FEAGIN DAY
4. EMPLOYER SUPPORT OF THE GUARD AND RESERVE 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. John Conwell
2. Ms. Monica Medina, presented a PowerPoint presentation.

Mayor Cook commented.

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Motion made by Representative Robinson, seconded by Representative Noe, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 8:30 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
Section 551.072

CONSULTATION WITH ATTORNEY
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, Byrd, Holguin, and Ortega

Motion made by Representative Robinson, seconded by Representative Byrd, and unanimously carried to adjourn the Executive Session at 9:25 a.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

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EX1. Discussion and action on litigation strategies in pending or contemplated utility rate cases. (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 Ortega, 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 October 25, 2011.

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2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

NO ACTION was taken on this item.

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3A. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Theresa Welch Fordham to the Parks and Recreation Advisory Board by Representative Michiel Noe, District 5.

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3B. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Roger Freund to the Animal Shelter Advisory Committee by Representative Cortney Carlisle Niland, District 8.

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3C. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Sal Masoud to the Construction Board of Appeals by Representative Cortney Carlisle Niland, District 8.

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4A. – 4B. INTRODUCTIONS

Motion made by Representative Ortega, seconded by Representative Niland, 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:

- 4A. An Ordinance amending the Final Project Plan and Final Reinvestment Zone Financing Plan for Tax Increment Reinvestment Zone Number Five, City of El Paso, Texas; adopting said amendments as required by Section 311.011(E) Texas Tax Code; also providing a severability clause.

PUBLIC HEARING WILL BE HELD ON NOVEMBER 8, 2011, FOR ITEM 4A

- 4B. An Ordinance amending Title 15 (Public Services) to amend Chapter 15.08 to add Section 15.08.011 (Definitions) to define terms; and to amend Section 15.08.120 (Special Privilege Licenses and Permits), to clarify the process and timeline for filing an appeal, to make the City Manager the appeals official; and to identify the Downtown Management District as the entity to which applicants seeking a special privilege permit for events in the Downtown Improvement Area must submit their application.

PUBLIC HEARING WILL BE HELD ON NOVEMBER 15, 2011, FOR ITEM 4B

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5A.

ORDINANCE 17665

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF A PORTION OF LOT 1, BLOCK 34, TIERRA DEL ESTE UNIT FIVE, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-3A (RESIDENTIAL) TO C-1 (COMMERCIAL). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

Mr. Mathew McElroy, Deputy Director of Planning and Economic Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Motion duly made by Representative Noe, 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**.

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5B.

ORDINANCE 17666

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.16 (ZONING BOARD OF ADJUSTMENT), SECTION 2.16.050 (SPECIAL EXCEPTIONS), OF THE EL PASO CITY CODE TO AMEND THE SPECIAL EXCEPTIONS FOR FRONT AND SIDE STREET YARD SETBACKS, DUPLEX AND SINGLE-FAMILY REAR YARD SETBACKS, CARPORT OVER A DRIVEWAY, AND TO DELETE THE SPECIAL EXCEPTION FOR CONDEMNATION OR EMINENT DOMAIN. THE PENALTY IS AS PROVIDED IN CHAPTER 20.24 (ENFORCEMENT-PENALTY) OF THE EL PASO CITY CODE.**

Mr. Mathew McElroy, Deputy Director for Planning and Economic Development, read floor amendment into the record.

Motion duly made by Representative Ortega, seconded by Representative Niland, 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, 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, AS REVISED**.

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5C.

ORDINANCE 17667

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) CHAPTER 2.16 (ZONING BOARD OF ADJUSTMENT), SECTION 2.16.020 (POWERS), SECTION 2.16.030 (VARIANCES) AND SECTION 2.16.060 (ADMINISTRATION) OF THE EL PASO CITY CODE TO ADD THE AUTHORITY TO APPROVE VARIANCES SPECIFIED IN TITLE 21 (SMARTCODE) OF THE EL PASO CITY CODE.**

Mr. Mathew McElroy, Deputy Director for Planning and Economic Development, commented.

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

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

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

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5D.

ORDINANCE 17668

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING SPECIAL PERMIT NO. ZON11-00003, TO ALLOW FOR INFILL DEVELOPMENT WITH REDUCED SETBACKS AND A PARKING REDUCTION ON THE PROPERTY DESCRIBED AS A PORTION OF LOTS 3 AND 4, BLOCK 6, DEL NORTE ACRES, 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.**

Mr. Mathew McElroy, Deputy Director of Planning and Economic Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Mayor Cook and Representative Byrd commented.

Mr. David Garcia, citizen, commented.

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

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

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

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5E.

ORDINANCE 17669

The City Clerk read an Ordinance entitled: **AN ORDINANCE VACATING ALL OF CRINCO LANE WITHIN BARNETT HARLEY-DAVIDSON SUBDIVISION AND LOMA TERRACE ADDITION NO. FOUR-D, CITY OF EL PASO, EL PASO COUNTY, TEXAS.**

Mr. Mathew McElroy, Deputy Director of Planning and Economic Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Representative Ortega commented.

Ms. Lupe Cuellar, Assistant City Attorney, gave legal advice.

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

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

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

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5F.

ORDINANCE 17670

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES) CHAPTER 15.22 (WATER AND WASTEWATER IMPACT FEES) OF THE EL PASO CITY CODE TO DELETE SECTION 15.22.170 (CERTIFICATION OF COMPLIANCE). THE PENALTY BEING AS PROVIDED IN CHAPTER 1.08, GENERAL PENALTY, OF THE EL PASO CITY CODE.**

Mr. Mathew McElroy, Deputy Director of Planning and Economic Development, commented.
Motion duly made by Representative Byrd, seconded by Representative Niland, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

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

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

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5G.

ORDINANCE 17671

The City Clerk read an Ordinance entitled: **AN ORDINANCE VACATING A UTILITY EASEMENT MEASURING 10 FEET IN WIDTH, LOCATED WITHIN A PORTION OF LOTS 1 AND 2, BLOCK 1, INTERNATIONAL INDUSTRIAL CENTER, CITY OF EL PASO, EL PASO COUNTY, TEXAS.**

Mr. Mathew McElroy, Deputy Director of Planning and Economic Development, commented.

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

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

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

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6.

ORDINANCE 17672

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 18 (BUILDING & CONSTRUCTION), CHAPTER 18.02 (BUILDING AND CONSTRUCTION ADMINISTRATIVE CODE) SECTION 18.02.108.5.2. (BOND REQUIREMENTS), OF THE EL PASO CITY CODE, DECREASING THE TERM OF THE REQUIRED BOND FROM TWO YEARS TO ONE YEAR, THE PENALTY BEING AS PROVIDED IN SECTION 18.02.107 (VIOLATIONS AND PENALTIES) OF THE EL PASO CITY CODE.**

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

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

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

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7.

ORDINANCE 17673

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.52 (FIRE PREVENTION CODE), SECTION 9.52.020 (ADOPTED), 105.6 (OPERATIONAL PERMITS) BY ADDING SUBSECTION 105.6.52 (OUTSIDE STORAGE OF COMBUSTIBLE MATERIAL); THE PENALTY AS PROVIDED IN EL PASO CITY CODE SUBSECTION 9.52.030.19 (VIOLATION PENALTIES).**

Mr. Karl Rimkus, Ordinance and Policy Coordinator of Environmental Services, presented a PowerPoint presentation (copy on file in City Clerk's office).

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

The following City staff members commented:

- 1. Ms. Ellen Smyth, Director of Environmental Services
- 2. Ms. Laura Gordon, Deputy City Attorney, gave legal advice.

The following members of the public commented:

- 1. Mr. David Pierce, Attorney for Newell Recycling
- 2. Mr. Joalton Newell, Newell Recycling

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

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

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

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8. PLANNING AND ECONOMIC DEVELOPMENT

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Niland, and unanimously carried to **WAIVE** the requirement that an application for infill development meet two criteria as stated in Section 20.18.280 when only one factor is met, prior to the submission of a special use permit application for the property located at 5520 Milray Drive, legally described as Lot 5, Block 3, Emerald Valley Estates Replat A, City of El Paso, El Paso County, Texas.

Mr. Mathew McElroy, Deputy Director of Planning and Economic Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Mayor Cook and Representative Byrd commented.

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Motion made by Representative Ortega, seconded by Representative Robinson, and unanimously carried to **ADJOURN** this meeting at 10:52 a.m.

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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk