

**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  
DECEMBER 4, 2012  
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, Michiel R. Noe, Steve Ortega, and Cortney Carlisle Niland. Late arrivals: Eddie Holguin, Jr., at 8:38 a.m. and Carl Robinson at 8:53 a.m. The invocation was given by Police 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. THE MISSIONS AND THEIR PEOPLE DAY**
- 2. GLADIATOR BATTALION DAY**
- 3. SHELDON HALL DAY**

**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](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 8:30 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 Vandeven
2. Mr. Othon Medina
3. Mr. David Ochoa
4. Mr. Jesus Bautista
5. Mr. Richard Schechter
6. Ms. Lisa Turner
7. Mr. Jorge Artalejo

Mayor Cook and Representatives Ortega and Holguin commented.

Ms. Sylvia Firth, City Attorney, gave legal advice.  
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**CONSENT AGENDA**

Motion made by Representative 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, 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 November 27, 2012.

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**2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS**

**NO ACTION** was taken on this item.

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**3. INTRODUCTION**

Motion made by Representative Byrd, seconded by Representative Robinson, 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 annexing the following real property described as all of Tract 2C, Section 46, Block 79, Township 2, Texas and Pacific Railroad Company Surveys, and a portion of Ysleta – Carlsbad Cut-off Road (Zaragoza Road), El Paso County, Texas. Subject Property: southwest of the intersection of Pebble Hills Boulevard and Zaragoza Road, Property Owner: Genagra, LP and County of El Paso. AN08-009 (SUB08-00129)

**PUBLIC HEARING WILL BE HELD ON DECEMBER 18, 2012, FOR THE ITEM**

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**4A.**

**ORDINANCE 17906**

The City Clerk read an Ordinance entitled: **AN ORDINANCE TO CORRECT AN ERROR IN ORDINANCE NO. 017853 WHICH AMENDED CONDITIONS PLACED BY ORDINANCE NO. 06245 AND PLACED ONE NEW CONDITION ON LOTS 11 AND 12, BLOCK 2, SAHARA SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS AND RELEASED CONDITIONS IMPOSED BY ORDINANCE NO. 17313 ON LOTS 13 AND 14, BLOCK 2, SAHARA SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE. SUBJECT PROPERTY: PARCEL 1: 9950 DYER STREET AND PARCEL 2: 9944 DYER STREET. PROPERTY OWNER: JUAN GANDARA AND, ANTONIO AND LAURA MENDOZA. PZCR12-00002.**

Mr. Carlos Gallinar, Deputy Director for Planning, City Development, presented a PowerPoint presentation (copy on file in City Clerk's office) and read revision into the record.

Representative Robinson commented.

Motion duly made by Representative Robinson, 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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**4B.**

**ORDINANCE 17907**

The City Clerk read an Ordinance entitled: **AN ORDINANCE VACATING A PORTION OF MAIN STREET, CITY OF EL PASO, EL PASO COUNTY, TEXAS. APPLICANT: MILLS PLAZA PARKING, L.P. & CITY OF EL PASO SURW12-00011.**

Mr. Carlos Gallinar, Deputy Director for Planning, City Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Representatives Robinson and Niland commented.

Mr. Brent Harris, Mills Plaza applicant, commented.

Motion duly made by Representative Niland, seconded by Mayor Pro Tempore 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, 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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**4C.**

**ORDINANCE 17908**

The City Clerk read an Ordinance entitled: **AN ORDINANCE VACATING MORENCI STREET BETWEEN LUNA STREET AND GRAMA STREET AND BEING A STREET WITHIN THE EAST EL PASO SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS. SURW12-00017.**

Mr. Carlos Gallinar, Deputy Director for Planning, City Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Representative Byrd commented.

Mr. Gonzalo Cedillos, Stormwater Engineering Manager for the El Paso Water Utilities, commented.

Motion duly made by Representative Byrd, seconded by Representative Noe, 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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4D.

**ORDINANCE 17909**

The City Clerk read an Ordinance entitled: **AN ORDINANCE VACATING A 15' DRAINAGE RIGHT-OF-WAY BETWEEN LOTS 6 & 7, BLOCK 7, RANCHOS DEL SOL UNIT TWO, CITY OF EL PASO, EL PASO COUNTY, TEXAS. SURW12-00016.**

Mr. Carlos Gallinar, Deputy Director for Planning, City Development, presented a PowerPoint presentation (copy on file in City Clerk's office).

Motion duly made by Representative Holguin, 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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5.

**ORDINANCE 17910**

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A LEASE TO THE UNIVERSITY OF TEXAS AT EL PASO OF A SINGLE DUCT IN A PORTION OF THE CITY'S EXISTING UNDERGROUND CONDUIT SYSTEM ON OREGON STREET BETWEEN GLORY ROAD AND CITY HALL FOR THEIR INTERNAL FIBER OPTIC TELECOMMUNICATIONS SYSTEM AND RELATED INTERLOCAL SERVICES FOR INSTALLATION SERVICES FOR INSTALLATION OF THE FIBER. THE FOLLOWING CONSIDERATION IS TO BE PAID TO THE CITY: ANNUAL LEASE FEE (\$2,764.54) AND REIMBURSEMENT FOR COSTS OF INSTALLING FIBER.**

Mayor Cook and Representative Robinson commented.

Mr. Miguel Gamino, Director of Information Technology, commented.

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, Acosta, Robinson, Noe, Holguin, Ortega and Niland  
NAYS: None  
NOT PRESENT FOR THE VOTE: Representative Byrd

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

**6. ENGINEERING AND CONSTRUCTION MANAGEMENT**

Motion made by Representative Niland, seconded by Representative Noe, and carried to **AUTHORIZE** the City Manager to enter into a job order contract for city owned facilities with Basic IDIQ, Inc., a Texas Corporation, in the amount not to exceed \$4,000,000 over a two year period. This is a "job order contract" as allowed pursuant to Texas Local Government Code Section 271.120. Basic IDIQ, Inc. competitively bid for job order contracting services and was selected by the Harris County Department of Education. The Contractor is entitled to perform only the work issued by individual project work orders.

AYES: Representatives Lilly, Byrd, Acosta, Noe, Ortega, and Niland

NAYS: Representative Holguin

ABSTAIN: Representative Robinson

Ms. Irene Ramirez, Interim City Engineer, presented a PowerPoint presentation (copy on file in City Clerk's office).

Mayor Cook and Representatives Noe, Byrd, Acosta, and Niland commented.

The following City staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Ms. Sylvia Firth, City Attorney, gave legal advice.
- 3. Ms. Carmen Arrieta- Candelaria, Chief Financial Officer

The following members of the public commented:

- 1. Mr. Eddie Linss, Vice President / Regional Manager for Basic IDIQ
- 2. Mr. Othon Medina
- 3. Ms. Anna Perez
- 4. Mr. David Ochoa
- 5. Ms. Lisa Turner

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ITEMS TAKEN TOGETHER 7, EX1, EX2 AND EX3

**7. CITY ATTORNEY**

Discussion and action regarding the petition captioned, "Save City Hall Initiative Petition" filed with the Municipal Clerk on October 30, 2012.

**1<sup>st</sup> MOTION**

Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 10:32 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

**2<sup>ND</sup> MOTION**

Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **ADJOURN** the Executive Session at 11:26 a.m. and **RECONVENE** the meeting of the City Council.

**3<sup>rd</sup> MOTION**

Motion made by Representative Holguin, seconded by Representative Robinson, and carried to **SEND** the petition to the voters at the May 11, 2013 Election. **THE MOTION FAILED.**

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

**4<sup>th</sup> MOTION**

Motion made by Representative Ortega, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **RETIRE** into **EXECUTIVE SESSION** at 12:27 p.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 (Consultation with Attorney).

**5<sup>th</sup> MOTION**

Motion made by Representative Robinson, seconded by Mayor Pro Tempore Lilly, and unanimously carried to **ADJOURN** the Executive Session at 12:38 p.m. and **RECONVENE** the meeting of the City Council.

**6<sup>th</sup> AND FINAL MOTION**

Motion made by Representative Holguin, seconded by Representative Robinson, and unanimously carried to **SEND** the petition language to the voters at the May 11, 2013 Election. **THE MOTION FAILED.**

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

Mr. Lowell Denton, outside counsel, presented a PowerPoint presentation (copy on file in City Clerk's office) and gave legal advice.

Mayor Cook and Representatives Holguin, Niland, and Noe commented.

The following City staff members commented:

1. Ms. Joyce Wilson, City Manager
2. Ms. Sylvia Firth, City Attorney, gave legal advice.
3. Ms. Richarda Momsen, Municipal Clerk
4. Mr. John Glendon, Assistant Municipal Clerk, read petition language into the record.

The following members of the public commented:

1. Mr. Othon Medina
  2. Mr. David Ochoa
  3. Mr. Salvador Gomez
  4. Ms. Anna Perez
  5. Mr. Bill Palmer
  6. Ms. Lisa Turner
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**8. MAYOR AND COUNCIL**

**1<sup>ST</sup> MOTION**

Motion made by Representative Byrd, seconded by Representative Acosta, and unanimously carried to **ACCEPT** the recommendations of the Financial and Audit Oversight Committee for the El Paso Internal Audit Charter.

**2<sup>ND</sup> MOTION**

Motion made by Representative Byrd, seconded by Representative Acosta, and unanimously carried to **ACCEPT** the recommendations of the Financial and Audit Oversight Committee for the FY 2013 Annual Internal Audit Plan.

**3<sup>RD</sup> MOTION**

Motion made by Representative Byrd, seconded by Representative Acosta, and unanimously carried to **ACCEPT** the recommendations of the Financial and Audit Oversight Committee for the Audit Plan update.

Representatives Byrd and Robinson commented.

The following City staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. Edmundo Calderon, Chief Internal Auditor

Ms. Lisa Turner commented.

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**EX1.** Carl Starr, et. al. vs. The City of El Paso, et. al., Cause No. EP-12-CV-0404-FM (551.071)

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Robinson, and unanimously carried to **EXTEND** the thirty day Moratorium on revision to the ordinance.

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

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**EX2.** Ray Salazar, et. al. vs. The City of El Paso, et. al., Cause No. EP-12-CV-00403-DCG. (551.071)

**NO ACTION** was taken on this item.

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**EX3.** Salvador Perez Gomez, et. al. vs. City of El Paso, et. al., Cause No. 2012DCV06482 (551.071)

Motion made by Mayor Pro Tempore Lilly, seconded by Representative Byrd, and carried that the CITY OF EL PASO retains the law firm of Denton, Navarro, Rocha & Bernal, PC as outside counsel in the lawsuit styled Salvador Perez Gomez, et. al. v. City of El Paso, et. al.; Cause No. 2012DCV06482. That the City Attorney is authorized to take any and all action necessary, both affirmative and defensive, as necessary, in connection with this lawsuit through outside counsel. This Motion is intended to grant broad authority to City Attorney to take action necessary to address these matters, including but not limited to, the initiation and response to, litigation, complaints and any other administrative or judicial proceedings or process, in consultation with the City Manager through outside counsel including any action to validate any securities by the City as previously authorized.

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

Ms. Laura Gordon, Deputy City Attorney, read motion into the record.

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Motion made by Mayor Pro Tempore Lilly, seconded by Representative Ortega, and unanimously carried to  
**ADJOURN** this meeting at 12:42 p.m.  
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**APPROVED AS TO CONTENT:**

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Richarda Duffy Momsen, City Clerk