

JOHN F. COOK
MAYOR



JOYCE WILSON
CITY MANAGER

CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
J. ALEXANDRO LOZANO, DISTRICT 3
MELINA CASTRO, DISTRICT 4
PRESI ORTEGA, JR., DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

**REGULAR COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
DECEMBER 5, 2006
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, Jose Alejandro Lozano, Melina Castro, Eddie Holguin, Jr., Steve Ortega, and Beto O'Rourke. Late arrival: Presi Ortega, Jr. at 9:51 a.m. The invocation was given by Police and Fire Chaplain Sam Faraone, followed by the Pledge of Allegiance to the Flag of the United States of America.

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MAYOR'S PROCLAMATIONS

- 1. YOUTH FOR HUMAN RIGHTS WEEK**
- 2. CELEBRATION FROM THE CITY OF EL PASO FOR THE ASSOCIATION OF THE UNITED STATES ARMY- AUSA**

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/city_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. Ms. Bertha Saldivar
2. Ms. Andrea Gonzalez
3. Ms. Elodia Mijares
4. Ms. Martha Ramirez
5. Mr. Marvin Rosenbaum
6. Mr. Fred Jackson
7. Mr. Ali Boureslan
8. Mr. Steven Strumer
9. Ms. Lisa Turner
10. Mr. Mauricio Olague
11. Mr. Victor de la Torre
12. Mr. Carlos Sanchez

Mayor John Cook and Representatives Lilly, Holguin, Lozano, and Castro commented.

The following City staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. Charlie McNabb, City Attorney, gave legal advice.

Motion made by Representative Holguin, seconded by Representative Byrd, and unanimously carried to **SUSPEND THE RULES OF ORDER** and allow Mr. De la Torre an additional one minute to speak.

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Motion made by Representative Byrd, seconded by Representative Lozano, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 8:36 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: Mayor Pro Tempore Presi Ortega, Jr.

Motion made by Representative Byrd, seconded by Representative Lilly, and unanimously carried to **ADJOURN** the Executive Session at 9:02 a.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

NOT PRESENT FOR THE VOTE: Mayor Pro Tempore Presi Ortega, Jr.

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EX1. Claim of Vickie Shields, Our File No. 06-C-211/Fire. (551.071).

Motion made by Representative Lozano, seconded by Representative Byrd, and carried that the City Attorney's Office be authorized **SETTLEMENT** authority, to negotiate settlement agreement, and sign all documents to resolve the claim entitled Vickie Shields; Our File No. 06-C-211/FIRE.

- AYES: Representatives Lilly, Byrd, Lozano, Castro, Holguin, Steve Ortega, and O'Rourke
- NAYS: None
- ABSTAIN: Representative Presi Ortega, Jr.

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EX2. Claim of Daniel Lopez, Our File No. 06-C-082/Street. (551.071).

Motion made by Representative Lozano, seconded by Representative Byrd, and carried that the City Attorney's Office be authorized to **REJECT** Claimant's settlement demand in the claim entitled Daniel Lopez; Our File No. 06-C-082/STREET.

- AYES: Representatives Lilly, Byrd, Lozano, Castro, Holguin, Steve Ortega, and O'Rourke
- NAYS: None
- ABSTAIN: Representative Presi Ortega, Jr.

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EX3. Billy Ray Nitsch vs. The City of El Paso, et. al.; Cause No. EP-06-CA-0042-KC.

Motion made by Representative Lozano, seconded by Representative Byrd, and carried that the City Attorney's Office be authorized to **REJECT** Plaintiff's settlement demand in the lawsuit styled Billy Ray Nitsch vs. City of El Paso, et. al.; Cause No. EP-06-CA-0042-KC.

AYES: Representatives Lilly, Byrd, Lozano, Castro, Holguin, Steve Ortega, and O'Rourke
NAYS: None
ABSTAIN: Representative Presi Ortega, Jr.

CONSENT AGENDA

Motion made by Mayor Pro Tempore Presi Ortega, Jr., seconded by Representative O'Rourke, 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, Lozano, Castro, Presi Ortega, Jr., Holguin, Steve Ortega, and O'Rourke

1. APPROVAL OF MINUTES

*Motion made, seconded, and unanimously carried to **APPROVE** the Minutes for the Regular City Council Meetings of November 21, 2006 (corrected), November 28, 2006, and the Special City Council Meeting of November 27, 2006 (Agenda Review).

2. REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS

NO ACTION WAS TAKEN on the above item.

3A.

***RESOLUTION**

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

That the City Manager be authorized to sign a Ninth Amendment to the Facilities Management and Tourism Agreement between the City of El Paso and SMG to provide for an additional year of management and operation services of the Visitor's Information Center located within the Airport Terminal Building at the El Paso International Airport.

Representative Holguin commented.

Ms. Joyce Wilson, City Manager, commented.

3B.

*Motion made, seconded, and unanimously carried to **MOVE TO REGULAR AGENDA** the following:

RESOLUTION

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

WHEREAS, Council approved, by resolution dated April 25, 2006, standards regarding loan restructuring, loan foreclosure, and declaring certain loans uncollectible; and

WHEREAS, the Community and Human Development Department recommends revisions to such resolution, such revisions believed to be necessary for more efficient and flexible delinquent account loan handling; and

WHEREAS, Council finds that the revisions recommended by the Department of Community and Human Development are appropriate and necessary and should be adopted as official City policy;

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the City Council of the City of El Paso hereby adopts Exhibit "A", entitled Community Development Loan Authorization, providing authorization to the City Attorney's Office and the Department of Community and Human Development, in connection with (1) Loan Restructuring in Lieu of Foreclosure, (2) Loan Foreclosure/Lawsuits and (3) Declaring Loans Uncollectible; and that the Director of Community and Human Development be authorized to take any and all action consistent with this resolution necessary to remedy such delinquencies.
2. That this resolution supersedes Council resolution dated April 25, 2006.

Mayor Cook and Representatives O'Rourke, Lilly, and Steve Ortega commented.

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

Mr. Richard Schechter, citizen, commented.

2ND AND FINAL MOTION

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

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3C.

***R E S O L U T I O N**

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

That the City Manager be authorized to sign a Local Project Advance Funding Agreement (LPAFA) between the City of El Paso ("City") and the State of Texas, acting by and through the Texas Department of Transportation ("State"). The scope of work for this Agreement is described as the Alameda Traffic Signal Interconnect which will expand the existing interconnect system to the existing computerized signal system by providing communications ranging from fiber optics to twisted copper and other related hardware for the interconnection of traffic signals. The project includes the installation of video surveillance cameras and video detection system for traffic management.

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3D.

***R E S O L U T I O N**

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

WHEREAS, the City has provided for the funding of two full time Substitute Associate Municipal Judge positions for service in the El Paso Municipal Courts as authorized under Chapter 30 of the Texas Government Code, and in accordance with Section 2.44.030 of the El Paso City Code, to include performing Night Magistrate functions; and

WHEREAS, a recommendation has come forward to move two current Substitute Associate Municipal Judges, Cheryl S. Lay and David Biagas, into these full time positions

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

1. That Cheryl S. Lay be appointed to serve in a full time position as Substitute Associate Municipal Judge during the remainder of her current term of office expiring on the fourth Tuesday in June 2007.

3. That David Biagas be appointed to serve in a full time position as Substitute Associate Municipal Judge during the remainder of his current term of office expiring on the fourth Tuesday in June 2009.

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4. RE-APPOINTMENT

*Motion made, seconded, and unanimously carried to **RE-APPOINT** Robert Gray to the Information Technology Advisory Board by City Representative Beto O'Rourke, District 8.

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5A. APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Gary Porras to the Construction Board of Appeals by Representative Eddie Holguin, Jr., District 6.

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5B. APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** James W. Wolff to the Historic Landmark Commission by Representative Jose Alexandro Lozano, District 3.

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6. APPLICATION FOR TAX REFUND

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

- A. LSI c/o Pioneer Bank in the amount of \$3,090.93 overpayment of 2005 taxes. (PID #H540-999-0020-3000).
- B. World Savings in the amount of \$3,875.85 overpayment of 2005 taxes. (PID #S700-999-0080-0300).
- C. First American Real Estate Tax Service in the amount of \$2,891.26 overpayment of 2005 taxes. (PID #T287-999-0170-0500).
- D. Wells Fargo Real Estate Tax Services, LLC in the amount of \$2,567.55 overpayment of 2005 taxes. (PID #R860-000-2292-0700).

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7. BID

*Motion made, seconded and unanimously carried to **DELETE** the item regarding Bid Solicitation No. 2006-199, Vocational Trucks (Dump Trucks and Rolloff Trucks), to Border International Trucks for a total award of \$465,670.00.

Department: General Services/Fleet Division
Award to: Border International Trucks
El Paso, Texas
Item(s): 1A (Dump Truck) - Qty. 2 @ \$104,525.00/each
2A (Rolloff Truck) - Qty. 2 @ \$128,310.00/each

Option: Vendor offers options to purchase up to one hundred percent (100%) of the original contract quantities, at the same unit price, if the option is exercised within ninety (90) days and/or one hundred eighty (180) days from the date of award of the contract.
Account No.: 508006-27507-37150068-PFLESVC01
Funding Source: Equipment Replacement Fund
Total Award: \$465,670.00

This is a fixed-price, single (one-time) purchase.

No prompt payment discount was offered.

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

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8. DEVELOPMENT AND INFRASTRUCTURE SERVICES

*Motion made, seconded, and unanimously carried to **APPROVE** the Storm 2006 design Professional Services Contract with Vencor Engineering, LLC for work on: High Ridge Channel and Bear Ridge Channel Improvements, Joyce Circle Drainage Improvements, erosion control and debris removal at Channel No. 1 (Belvidere Channel), and Fort Bliss Sump Drainage Improvements for a total amount not to exceed \$200,000. Such contracts were entered into by the City Manager under the authority granted by Council in the September 19, 2006, Resolution.

Storm 2006 Infrastructure Repair/Reconstruction Progress Update December 5, 2006.

Design (Professional Services)

- Contract signed with one (1) consultant firm for work on the following projects:

Vencor Engineering, LLC for work on: High Ridge Channel and Bear Ridge Channel Improvements, Joyce Circle Drainage Improvements, erosion control and debris removal at Channel No. 1 (Belvidere Channel), and Fort Bliss Sump Drainage Improvements for a total amount not to exceed \$200,000.

Representative Steve Ortega commented.

Ms. Joyce Wilson, City Manager, commented.

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ITEMS TAKEN TOGETHER:

9A. & 9C. INTRODUCTIONS

Motion made by Representative Steve Ortega, seconded by Representative Byrd, 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:

- A.** An Ordinance vacating a portion of Convair Road right-of-way within El Paso International Airport Tracts Unit 5, City of El Paso, El Paso County, Texas. Subject Property: East of Convair Drive and West of Northrop Drive. Applicant: El Paso International Airport. SV06006
- C.** An Ordinance reaffirming the authorization, approved in Ordinance No. 016484, for the City of El Paso to sell a 12.197 acre parcel of land, more or less, being a portion of Tract 6B, S.A. & M.G. Railways Survey Company No. 268 and a portion of Tract 3B, John Whittaker Survey, No. 134, City of El Paso, El Paso County, Texas, to Ham Management, LLC, and correcting an error in the legal

description to include "all of Tract 10C2" and "now known as Tract 3B2" in the identified legal description and survey.

PUBLIC HEARING WILL BE HELD ON NOVEMBER 28, 2006, FOR ITEMS 7A, 7B, AND 9A AND 9C

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9B. INTRODUCTION

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

- B.** An Ordinance designating the five areas described as Redevelopment Districts in the El Paso Downtown 2015 Plan as a Tax Increment Reinvestment Zone; describing the boundaries of the Zone; creating a Board of Directors for the Zone; providing for an effective date and a termination date for the Zone; naming the Zone "Reinvestment Zone Number Five, City of El Paso, Texas"; establishing a Tax Increment Fund; and containing other provisions related thereto.

PUBLIC HEARING WILL BE HELD ON DECEMBER 19, 2006, FOR ITEM 9B

- AYES: Representatives Lilly, Byrd, Lozano, Presi Ortega, Jr., and Steve Ortega
- NAYS: Representatives Castro and Holguin
- ABSTAIN: Representative O'Rourke (affidavit to recuse on file in City Clerk's Office)

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10. ORDINANCE

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS), CHAPTER 5.46 (ASSISTED LIVING FACILITIES), OF THE EL PASO CITY CODE TO CREATE THE CHAPTER RELATING TO STATE LICENSING, INSPECTION, AND ENFORCEMENT ASSISTANCE REGARDING ASSISTED LIVING FACILITIES; THE PENALTY BEING AS PROVIDED IN SECTIONS 1.08.010-1.08.030 OF THE CITY CODE.**

Mayor Cook and Representative Byrd, O'Rourke, Castro, Lozano, and Holguin commented.

The following City staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. Alan Shubert, Development Services
- 3. Ms. Elaine Hengen, Assistant City Attorney, gave a presentation (on file in the City Clerk's office).
- 4. Mr. Charlie McNabb, City Attorney, gave legal advice.

The following members of the public commented:

- 1. Mr. Terry Hammond
- 2. Ms. Lisa Turner
- 3. Mr. Richard Schechter

1ST MOTION

Motion made by Representative Byrd, seconded by Representative Lilly, and unanimously carried to **SUSPEND THE RULES OF ORDER** and allow Mr. Terry Hammond to speak after the sign-up period.

2ND AND FINAL MOTION

Motion duly made by Representative Byrd, 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, Castro, Presi Ortega, Jr., Steve Ortega, and O'Rourke
- NAYS: Representatives Lozano and Holguin

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

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11. PUBLIC HEARING – FINANCIAL SERVICES

*Motion made, seconded, and unanimously carried to **POSTPONE** for two weeks an Ordinance to establish regulations whereby the City of El Paso may refuse to enter into an agreement with a person indebted to the City of El Paso, and whereby the City of El Paso may offset amounts it owes vendors by amounts owed by vendors to the City of El Paso.

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12A. MAYOR AND COUNCIL

*Motion made, seconded, and unanimously carried to **POSTPONE** for nine weeks discussion and action on the future of elephants at the El Paso Zoo.

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12B. MAYOR AND COUNCIL

Discussion and action on traffic control measures on Tays and Delta.

Mr. Ted Marquez, Engineering Department – Traffic Division, presented a PowerPoint presentation (on file in the City Clerk's office).

Representative O'Rourke commented.

The following members of the public commented:

- 1. Mr. Ricardo Vielma
- 2. Ms. Desiree Marsh

NO ACTION WAS TAKEN on the item.

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12C. MAYOR AND COUNCIL

Motion made by Representative Steve Ortega, seconded by Mayor Pro Tempore Presi Ortega, Jr., and unanimously carried to **APPOINT** twelve Ad Hoc Members to the City Council Rules Legislative Review Committee to include a member from the City Plan Commission, a member from the Civil Service Commission, and a member from the Neighborhood Council by December 19, 2006, for the purpose of forwarding recommendations to the Council as a whole for deliberation and action for a May 2007 Charter Election.

Ms. Elaine Hengen, Assistant City Attorney, presented a PowerPoint presentation (on file in the City Clerk's office).

Mayor Cook and Representatives Steve Ortega, Castro, Holguin, Lozano, and Byrd commented.

The following City staff members commented:

- 1. Ms. Joyce Wilson, City Manager
- 2. Mr. Charlie McNabb, City Attorney, gave legal advice.

The following members of the public commented:

- 1. Ms. Lisa Turner
- 2. Mr. Richard Schecter

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13A. FINANCIAL SERVICES – BEST VALUE PROCUREMENT

Motion made by Mayor Pro Tempore Presi Ortega, Jr., seconded by Representative Lilly, and unanimously carried to **AWARD** Solicitation No. 2007-019, Public Information Officer and Public Relations Representative of the Environmental Services and Street Department

Departments:	Environmental Services and Street
Award to:	Keep El Paso Beautiful El Paso, Texas
Item(s):	All
Options:	1 Year
Account No.:	34010289-40403-502116
Funding Source:	Solid Waste Management, Promotional Services
Annual Estimated Amount:	\$128,614.00
Total Estimated Award:	\$385,842.00

This is a thirty-six (36) month contract.

No prompt payment discount was offered.

Furthermore, it is requested that staff be authorized to negotiate, the City Attorney's Office to review, and the City Manager execute any additional documents and agreements as necessary.

The Departments of Financial Services and Environmental Services recommend award to the bidder indicated.

Mayor Cook and Representatives Presi Ortega, Jr., Holguin, Steve Ortega, and Castro commented.

Ms. Joyce Wilson, City Manager, and Ms. Ellen Smyth, Environmental Services, commented.

Ms. Katherine Palafox, Keep El Paso Beautiful, commented.

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13B. FINANCIAL SERVICES – REQUEST FOR PROPOSAL

Discussion and action on the award of Solicitation No. 2007-003R, Lease, Develop, and Operate News, Gifts, & Specialty Retail Concessions, at the El Paso International Airport to The Paradies Shops, Inc. for a projected amount of \$14,005,669.00.

Department: Department of Aviation
 Award to: The Paradies Shops, Inc.
 Atlanta, GA
 Account No.: Revenue Contracts
 Funding Source: Revenue Contracts
 Projected Amount: \$14,005,669.00
 (\$11,164,367.00 - Projected Revenue during the Contract's Term)
 (\$2,841,302.00 – Initial Capital Improvements)

The Review Committee recommends award as indicated. The Paradies Shops, Inc. submitted the highest ranked and best proposal to meet the needs of the City.

The term of this contract is comprised of two parts, the Interim Term and the Primary Term. The Interim Term will begin January 1, 2007, and will terminate upon delivery of newly constructed concession areas to The Paradies Shops, Inc. (estimated Spring 2008). The Primary Term is ten (10) years after possession of newly constructed concession areas to The Paradies Shops, Inc.

The Paradies Shops, Inc. has committed \$2,841,302.00 to initial capital improvements for all concession areas, which was the highest capital improvement amount proposed.

Furthermore, it is requested that staff be authorized to negotiate, the City Attorney's Office to review, and the City Manager execute any additional documents and agreements as necessary.

Mayor Cook and Representatives Steve Ortega, Lozano, Lilly, and Presi Ortega, Jr. commented.

The following City staff members commented:

1. Ms. Joyce Wilson, City Manager
2. Mr. Terrence Freiburg, Director of Purchasing
3. Mr. Pat Abeln, Director of Aviation

Mr. Stuart Schwartz, legal counsel for The Paradies Shops, Inc., and Mr. Greg Paradies, President of the Paradies Shops, Inc., commented.

The following members of the public commented:

1. Mr. Mark Barnett, Barnett Harley Davidson
2. Mr. Eric Pearson, El Paso Community Foundation
3. Mr. Tony Grant, Border Bookstores
4. Ms. Lorraine Wardy, Explore El Paso

1ST MOTION

Motion made by Mayor Pro Tempore Presi Ortega, Jr., seconded by Representative Lozano, and unanimously carried to **RETIRE** into **EXECUTIVE SESSION** at 12:54 p.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.076.

2ND MOTION

Motion made by Representative Steve Ortega, seconded by Representative Lozano, and unanimously carried to **ADJOURN** the Executive Session at 1:05 p.m. and **RECONVENE** the meeting of the City Council.

3RD AND FINAL MOTION

Motion made by Representative Lilly, seconded by Representative Steve Ortega, and unanimously carried to **APPROVE** the above item.

14. OFFICE OF MANAGEMENT AND BUDGET

Motion made by Representative O'Rourke, seconded by Representative Steve Ortega, and unanimously carried to **POSTPONE** for one week discussion and action on proposals to increase the tax exemption for elderly and disabled or provide a general homestead exemption for residential taxpayers effective January 1, 2008.

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Motion made by Representative Steve Ortega, seconded by Representative Lilly, and unanimously carried to **ADJOURN** this meeting at 1:52 p.m.
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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk