

JOHN F. COOK
MAYOR

JOYCE WILSON
CITY MANAGER



CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
CARL ROBINSON, 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
SEPTEMBER 8, 2009
8:30 A.M.**

The City Council met in regular session at the above place and date. Meeting was called to order at 8:40 a.m. Mayor John F. Cook present and presiding and the following Council Members answered roll call: Susannah M. Byrd, Emma Acosta, Carl Robinson, Rachel Quintana, Eddie Holguin, Jr., and Steve Ortega. Late arrival: Beto O'Rourke at 8:45 a.m. Absent: Ann Morgan Lilly requested to be excused. The invocation was given by Police Chaplain Lisle Davis, followed by the Pledge of Allegiance to the Flag of the United States of America.

MAYOR'S PROCLAMATIONS

- 1. OPERATION OUTREACH:
DROPOUT PREVENTION AND DROPOUT RECOVERY DAY**
- 2. PAYROLL WEEK IN EL PASO**
- 3. LIFE INSURANCE AWARENESS MONTH**
- 4. THE SPIRIT OF THE 50'S - THE 50TH REUNION OF THE MIGHTY
MUSTANGS OF BURGESS HIGH SCHOOL, CLASS OF 1959**

**RECOGNITION
9/11 Tribute**

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. Ray Gilbert
3. Mr. David Henderson
4. Mr. Randy Graham

5. Ms. Lisa Turner
6. Mr. Edward DeBruhl
7. Mr. Manny Hinojosa

Mayor Cook and Representatives Holguin and Byrd commented.

Ms. Joyce Wilson, City Manager, and Ms. Richarda Momsen, Municipal Clerk, commented.

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 Motion made by Representative Quintana, seconded by Representative Byrd, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 8:40 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: Representative O'Rourke

Motion made by Representative Holguin, seconded by Representative O'Rourke, and unanimously carried to adjourn the Executive Session at 9:00 a.m. and **RECONVENE** the meeting of the City Council, during which time motions were made.

NOT PRESENT FOR THE VOTE: Representative Byrd

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EX1. Application of El Paso Electric Company to implement an interim fuel refund before the Public Utility Commission of Texas, Docket No. 37433. (551.071)

Motion made by Mayor Pro Tempore Acosta, seconded by Representative Robinson, and unanimously carried to grant the authority to the City Attorney to settle, negotiate settlement agreement and sign all documents on behalf of the City of El Paso to resolve the Petition of El Paso Electric Company for Authority to Decrease Fuel Factor before the Public Utility Commission of Texas, Docket No. 37086.

Mayor Cook commented.

Mr. Norman Gordon, outside counsel, gave legal advice.

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CONSENT AGENDA

Motion made by Mayor Pro Tempore Acosta, 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, Byrd, Acosta, Robinson, Quintana, Holguin, Ortega, and O'Rourke

NAYS: None

ABSENT: Representative Lilly

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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 September 1, 2009, and the Special City Council Meetings of August 26, 2009 (Billboards) and September 1, 2009 (Annexation).

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2. REQUEST TO EXCUSE CITY COUNCIL MEMBERS

*Motion made, seconded, and unanimously carried to **EXCUSE** Representative Ann Morgan Lilly from the Regular City Council Meeting of August 11, 2009.

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3.

***RESOLUTION**

That the City Manager be authorized to sign a Contract of Sale between the City of El Paso and Saul Manuel Dominguez, Sr. for the purchase of the following parcel for the Roseway Street and Drainage Improvement Project for \$75,000:

Parcel 8 – 1,545 square feet, more or less, being a portion of Tract 110, North Valumbrosa, Subdivision No. 2, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof, recorded in Volume 14, Page 39, Plat Records of El Paso County, Texas, also known as 9132 Roseway Drive, El Paso County, Texas.

Representatives Holguin and Byrd commented.

Mr. Robert Ramirez, Consumer Affairs Administrator, commented.

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4A. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Laura Foster Kissack to the Public Service Board Selection Committee by Representative Susie Byrd, District 2.

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4B. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Kevin T. von Finger to the Open Space Advisory Board by Representative Steve Ortega, District 7.

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4C. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Angelica Quintanilla to the Committee on Border Relations by Representative Beto O'Rourke, District 8.

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4D. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Jose M. Landeros to the City Plan Commission by Representative Steve Ortega, District 7.

4E. BOARD APPOINTMENT

*Motion made, seconded, and unanimously carried to **APPOINT** Ann F. Kruzich to the El Paso Museum of Archaeology Advisory Board by Representative Carl Robinson, District 4.

5A. LEGISLATIVE REVIEW COMMITTEE REPORTS (FOR NOTATION PURPOSES ONLY)

*Motion made, seconded, and unanimously carried to **ACCEPT**, for notation, the formal report of the Economic and Community Development, Quality of Life, and Tourism Legislative Review Committee meeting held on August 20, 2009, as submitted by Representative Steve Ortega, Chair.

Representative Ortega commented.

5B. LEGISLATIVE REVIEW COMMITTEE REPORTS (FOR NOTATION PURPOSES ONLY)

*Motion made, seconded, and unanimously carried to **ACCEPT, AS REVISED TO REFLECT NO ACTION WAS TAKEN ON ITEM 1 OF THE MINUTES**, for notation, the formal report of the Transportation Legislative Review Committee meeting held on August 19, 2009, as submitted by Representative Beto O'Rourke, Chair.

Representative O'Rourke commented.

6. INTRODUCTION

Motion made by Representative Ortega, seconded by Representative Byrd, 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 granting Special Permit No. ZON09-00033 to allow for a 100% parking reduction on the property described as Lots 1-6, Block 86, Campbell Addition, City of El Paso, El Paso County, Texas, pursuant to Section 20.04.260 of the El Paso City Code. The penalty is as provided for in Chapter 20.24.260 of the El Paso City Code.

PUBLIC HEARING WILL BE HELD ON SEPTEMBER 29, 2009, FOR THE ITEM

7. ENGINEERING

Motion made by Representative O'Rourke, seconded by Representative Quintana, and carried to **AWARD** Solicitation No. 2009-263 for the Borderland Area Street and Drainage Improvements Phase VI to Danny Sander Construction, Inc. for a total estimated amount of \$529,667.

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

NAYS: Representative Holguin

ABSENT: Representative Lilly

Department: Engineering
Award to: Danny Sander Construction, Inc.
Base Bid I: \$448,164
Base Bid II: \$79,503
Base Bid III: \$ 2,000
Account No.s: 71150069 – 508027 – 07890 – G7134CD0020
31255008 – 508027 – 27695 – G7134PS0020

Funding Sources: CDBG 34th Year (2008 - 2009) and PSB

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 Department recommends award as indicated to the lowest responsible bidder.

Mayor Cook and Representatives Holguin, Ortega, Robinson, and O'Rourke commented.

Ms. Joyce Wilson, City Manager, commented.

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8.

ORDINANCE 17188

The City Clerk read an Ordinance entitled: **AN ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF EL PASO, TEXAS MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE BONDS, TAXABLE SERIES 2009 (DIRECT SUBSIDY-BUILD AMERICA BONDS)" AND RESOLVE MATTERS WHICH ARE NECESSARY TO EFFECTUATE SAID ISSUANCE, INCLUDING A DELEGATION OF AUTHORITY.**

Representatives Robinson and O'Rourke commented.

Mr. Nick Costanzo, Vice President of the El Paso Water Utilities, and Mr. John Balliew, Vice President of Operations of El Paso Water Utilities, commented.

Mr. George Williford, Senior Vice President of First Southwest Company, and Mr. Paul Braden, Bond Counsel, commented.

Mr. Ray Gilbert, citizen, commented.

Motion duly made by Representative Ortega, seconded by Representative O'Rourke, 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 Byrd, Acosta, Robinson, Quintana, Ortega, and O'Rourke

NAYS: Representative Holguin

ABSENT: Representative Lilly

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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9.

ORDINANCE 17189

The City Clerk read an Ordinance entitled: **AN ORDINANCE MAKING CHAPTER 2.92 OF THE EL PASO CITY CODE APPLICABLE TO THE MEMBERS OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD AND RESOLVING MATTERS INCIDENT AND RELATED THERETO; THE PENALTY BEING AS PROVIDED IN SECTION 2.92.150 OF THE EL PASO CITY CODE.**

Representative Ortega commented.

Ms. Elaine Hengen, Senior City Attorney, gave legal advice.

Mr. Ray Gilbert, citizen, commented.

Motion duly made by Representative Ortega, 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, Byrd, Acosta, Robinson, Holguin, Ortega, and O'Rourke

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Quintana

ABSENT: Representative Lilly

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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10.

ORDINANCE 17190

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.08 (BUILDING CODE), SECTION 18.08.170 (ACCESSIBILITY FOR PEOPLE WITH PHYSICAL DISABILITIES), OF THE EL PASO CITY CODE BY DELETING THE PRIOR ADOPTION OF SECTIONS 5 THROUGH 13 OF THE TEXAS ACCESSIBILITY STANDARDS; DELETING THE CITY OF EL PASO AMENDMENTS TO THE TEXAS ACCESSIBILITY STANDARDS, SECTIONS 4.1.3 (5) THROUGH 13.4.1; ADOPTING AND AMENDING THE 2003 INTERNATIONAL BUILDING CODE, CHAPTER 11, SECTION 1101; DELETING THE CITY OF EL PASO AMENDMENTS TO THE INTERNATIONAL BUILDING CODE, CHAPTER 11, SECTIONS 1102 THROUGH 1114; THE PENALTY BEING AS PROVIDED IN SECTION 18.02.107 (VIOLATIONS AND PENALTIES) OF THE EL PASO CITY CODE.**

Mr. Victor Torres, Director of Development Services, presented a PowerPoint presentation (on file in the City Clerk's office).

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

Mr. Bill Stern, Development Services Chief Building Inspector, and Ms. Kathryn Dodson, Director of Economic Development, commented.

The following members of the public commented:

1. Mr. Arne Schonberger, attorney for the disabled, presented a PowerPoint presentation (on file in the City Clerk's office).
2. Mr. Tom Bohannon, Bohannon Development
3. Mr. Robert Malone
4. Lieutenant Colonel Earl Dunnington
5. Mr. Luis Chew
6. District Judge Bill Moody
7. Ms. Olivia Chavez
8. Mr. H. W. "Bill" Sparks
9. Mr. Marc Salazar, representing VOLAR
10. Ms. Suzanne Fabian
11. Mr. Richard Sheldon
12. Ms. Kristin Sizemore, Bohannon Development
13. Mr. Eric Zuloaga, Bohannon Development
14. Mr. Ray Baca, Monterrey Properties
15. Ms. Lisa Turner
16. Mr. James Peterson
17. Mr. Shannon Jernigan
18. Ms. Jane Vela Jones
19. Mr. Frank Lozano
20. Mr. David Lopez, Jr.

1ST MOTION

Motion made by Representative Quintana, seconded by Representative Holguin, to **ADOPT** the American National Standards Institute (ANSI) requirements and retain the 5% requirement for ADA accessible units. **THE MOTION FAILED.**

AYES: Representatives Acosta, Quintana, and Holguin
NAYS: Representatives Byrd, Robinson, Ortega, and O'Rourke
ABSENT: Representative Lilly

2ND AND FINAL MOTION

Motion duly made by Representative Ortega, seconded by Mayor Pro Tempore Acosta, that the Ordinance be **ADOPTED, AS REVISED WITH THE 5% PROVISION**, and for staff to bring back the Ordinance to Council in 6 months and request, in the meantime, that VOLAR and the Apartment Association create a real time data base on the computer of ADA units. 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 Acosta, Quintana, Holguin and Ortega
NAYS: Representative Byrd, Robinson, and O'Rourke
ABSENT: Representative Lilly

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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11A. MAYOR AND COUNCIL

Discussion and action concerning direction for creation of an Ordinance that would allow for private residents to purchase speed humps even though the traffic studies do not justify the installation.

Mayor Cook and Representatives Ortega, O'Rourke, Acosta, and Quintana commented.

The following City staff members commented:

1. Ms. Joyce Wilson, City Manager
2. Mr. Ted Marquez, Engineering Division Manager
3. Ms. Laura Gordon, Deputy City Attorney, gave legal advice.

Ms. Lisa Turner and Mr. Shannon Jernigan, citizens, commented.

1ST MOTION

Motion made by Representative Ortega, seconded by Representative Byrd, and unanimously carried to **RETIRE** into **EXECUTIVE SESSION** at 10:40 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 (Consultation with Attorney).

2ND MOTION AND FINAL MOTION

Motion made by Representative Byrd, seconded by Representative Ortega, and unanimously carried to **ADJOURN** the Executive Session at 10:47 a.m. and **RECONVENE** the meeting of the City Council.

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

11B. MAYOR AND COUNCIL

Discussion and action on strategy for following up on Smart Growth Schools agenda.

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

NO ACTION was taken on the item.

Motion made by Representative Robinson, seconded by Representative Ortega, and unanimously carried to **ADJOURN** this meeting at 3:23 p.m.

APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk