

OSCAR LEESER  
MAYOR

TOMMY GONZALEZ  
CITY MANAGER



**CITY COUNCIL**  
PETER SVARZBEIN, DISTRICT 1  
LARRY ROMERO, DISTRICT 2  
EMMA ACOSTA, DISTRICT 3  
CARL L. ROBINSON, DISTRICT 4  
MICHIEL R. NOE, DISTRICT 5  
CLAUDIA ORDAZ, DISTRICT 6  
LILY LIMÓN, DISTRICT 7  
CORTNEY CARLISLE NILAND, DISTRICT 8

SPECIAL MEETING OF THE CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
November 12, 2015

The City Council met at the above place and date. Meeting was called to order at 10:14 a.m. Mayor Pro Tempore Michiel Noe present and presiding and the following Council Members answered roll call: Larry Romero, Emma Acosta, Carl Robinson, and Lilia Limón. Not Present: Claudia Ordaz and Cortney Niland. Mayor Oscar Leeser and Peter Svarzbein requested to be excused.

**AGENDA**

**1. RESOLUTION CANVASSING RETURNS  
OF THE 2015 CITY SPECIAL ELECTION**

THE STATE OF TEXAS     )  
  )  
COUNTY OF EL PASO     )

**WHEREAS**, the City Council of the City of El Paso ordered a special election to be held in said City on November 3, 2015, for the purpose of determining whether certain amendments to the City Charter should be adopted; and

**WHEREAS**, the election officers who held said election have duly made returns of the results thereof, and said returns have been duly delivered to said City Council.

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

1. That the City Council officially finds and determines that said election was duly given, that proper notice of said election was duly given, that proper election officers were duly appointed prior to said election, that said election was duly held, that due returns of the results of said Special Election have been duly made and delivered, that the election returns have properly been made out and duly certified by the officers of said election in the different voting precincts of the City, and that the City Council has duly canvassed said returns, all in accordance with law and the resolution and amendments thereto calling said election.

2. That the City Council officially finds and determines that the following votes were cast at said Special Election by the resident, qualified electors of said City, who voted on the following Amendments to the Charter of the City of El Paso, the text of which are attached as Exhibit A:

**CHARTER AMENDMENT NO. 1**

For: 13,150  
Against: 9,433

**CHARTER AMENDMENT NO. 2**

For: 10,618  
Against: 11,550

**CHARTER AMENDMENT NO. 3**

For: 13,393  
Against: 9,057

**CHARTER AMENDMENT NO. 4**

For: 14,242  
Against: 8,098

**CHARTER AMENDMENT NO. 5**

For: 13,694  
Against: 8,567

**CHARTER AMENDMENT NO. 6**

For: 10,794  
Against: 10,796

**CHARTER AMENDMENT NO. 7**

For: 15,827  
Against: 6,198

**CHARTER AMENDMENT NO. 8**

For: 15,170  
Against: 6,774

3. (a) That the City Council officially finds, determines, and declares the result of said Special Election for the submission of City Charter Amendments and that **City Charter Amendment Nos. 1, 3, 4, 5, 7, and 8** did receive a majority vote and therefore did carry.

(b) That the City Council declares, in accordance with the provisions of Section 9.005 of the Texas Local Government Code, that **City Charter Amendments Nos. 1, 3, 4, 5, 7, and 8** are adopted, and that this Resolution shall constitute the entry of an order in the records of the City declaring that such amendments to the City Charter are adopted and effective immediately upon the adoption of this Resolution.

4. That the City Council officially finds, determines, and declares the result of said Special Election for the submission of City Charter Amendments and that **City Charter Amendment Nos. 2 and 6** did not receive a majority vote and therefore did not carry, and for these reason are not adopted.

5. That on file in the City Clerk's Office and made a part hereof by reference are copies of the mechanical precinct tabulations of the votes cast at the 2015 City Special Election showing the number of votes cast in each precinct for the City Charter Amendments.

6. That this Resolution is adopted subject to the right of any person to contest such election in any way provided by law.

7. That this Resolution was acted upon in accordance with the law by the presiding officer and the City Council and was deemed by said City Council that upon passage of the Resolution, it shall take effect immediately.

8. This Resolution shall be spread upon the minutes of the City Council, and the City Clerk shall record the Charter Amendments so adopted in the separate book kept in her office for such purpose. The Mayor shall certify the adoption of said Charter Amendments to the Secretary of State in accordance with Section 9.007 of the Texas Local Government Code.

Representative Robinson questioned Ms. Richarda Momsen, City Clerk.

Revision read into the record by Richarda Momsen, City Clerk, and Elizabeth Ruhmann, Assistant City Attorney.

Motion made by Representative Limón, seconded by Representative Acosta, and unanimously carried to **APPROVE, AS REVISED** the Resolution.

AYES: Representatives Romero, Acosta, Robinson, Noe, and, Limón

NAYS: None

NOT PRESENT FOR THE VOTE: Representatives Ordaz and Niland

ABSENT: Representative Svarzbein

**EXHIBIT A**

**AMENDMENT NO. 1**

**Text of Amendment**

Amending Section 1.2 of the City Charter, relating to definitions of terms used in the charter, to read in pertinent part as follows:

**Section 1.2 DEFINITIONS.**

As used in this Charter, the term "laws of Texas" shall include the Constitution and statutes of the State of Texas, the common law as it exists in the State of Texas, and appropriate case law. As used herein, "State" shall mean the State of Texas; "City" shall mean the City of El Paso; "City Council" or "Council" shall mean the Mayor and Representatives of the City of El Paso, with the Mayor being a non-voting member of Council; provided, however, the Mayor shall not be considered a member of Council for items and matters requiring a super-majority vote of all members of the governing body; and "department" shall mean any City agency, office, bureau or other organizational unit.

**Ballot Proposition**

Should Section 1.2 of the City Charter, relating to the definition of the term "City Council," be amended to clarify that the Mayor is a non-voting member of City Council, and should not be counted as a member of Council for matters requiring a super-majority vote of all members of the governing body?

YES ( )

NO ( )

**AMENDMENT NO. 2**  
**Text of Amendment**

Repealing Section 3.3 A of the City Charter, relating to the prohibitions regarding other employment by a Council member, as follows:

**Section 3.3 PROHIBITIONS, Subsection A.**

A. (RESERVED)

**Ballot Proposition**

Should Section 3.3 A of the City Charter, relating to the prohibitions regarding public employment by City Council members and City employment by former City Council members, be repealed?

YES ( )

NO ( )

**AMENDMENT NO. 3**  
**Text of Amendment**

Amending Section 3.5 A of the City Charter, relating to the scheduling of City Council meetings, to read in pertinent part as follows:

**Section 3.5 CITY COUNCIL PROCEDURES AND RULES, Subsection A.**

A. **Meetings.** Regular meetings of the Council shall be held in Council chambers no less than once every other week at such times as may be prescribed by resolution. Special meetings and informal work sessions of the Council shall be called by the Mayor or a majority of the entire Council by giving written notice to the City Clerk. All meetings of the Council and of any committees thereof shall be held as permitted by the Texas Open Meetings Act.

**Ballot Proposition**

Should Section 3.5 A of the City Charter, relating to City Council meetings, be amended to require Council to hold regular meetings no less than once every other week instead of once every week?

YES ( )

NO ( )

**AMENDMENT NO. 4**  
**Text of Amendment**

Amending Section 3.5 D of the City Charter, relating to City Council processes and procedures, to read in pertinent part as follows:

**Section 3.5 CITY COUNCIL PROCEDURES AND RULES, Subsection D.**

D. **Voting.** No action of the Council, except as otherwise provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the members present and voting. Ordinances or resolutions that impose taxes, grant franchises or leases, or authorize conveyances shall not be valid unless adopted by a majority of the entire Council.

**Ballot Proposition**

Should Section 3.5 D of the City Charter, relating to the City Council voting process, be amended to delete the requirement that voting be by roll call, thereby allowing

Council to use electronic voting or other approved process; and to clarify that actions that impose taxes, or grant franchises or leases, require a majority vote of the entire Council?

YES ( )

NO ( )

#### **AMENDMENT NO. 5**

##### **Text of Amendment**

Amending Sections 3.7 A, 3.5 E and 4.1 B of the City Charter, relating to the appointment and removal of the City Attorney, to read in pertinent part as follows:

#### **Section 3.7 APPOINTMENTS, Subsection A.**

**A. Appointment and Removal of the City Attorney.** The City Council by a majority vote of its total membership shall appoint a City Attorney and fix the City Attorney's compensation. The City Attorney shall be appointed solely on the basis of legal experience and qualifications. The City Attorney may be removed by a resolution approved by a majority vote of the total membership of the City Council. Assistant City Attorneys shall be appointed by, and will report to and work at the direction and under the supervision of the City Attorney.

#### **Section 3.5 CITY COUNCIL PROCEDURES AND RULES, Subsection E.**

**E. Veto.** Ordinances and resolutions finally adopted by the Council shall be filed in the office of the City Clerk and signed by the Mayor before they take effect. If the Mayor vetoes the ordinance or resolution, reasons shall be set forth by the Mayor in writing, and the ordinance or resolution with those reasons shall be returned to the Council. However, the Mayor shall not have any veto power over any City Council action which removes the City Manager or the City Attorney. To override the Mayor's veto, three fourths of all of the Representatives must vote in favor of the returned ordinance or resolution, in which event the adopted ordinance or resolution shall become law. If the Mayor shall either fail to approve or object in writing to any adopted ordinance or resolution within five days after it has been filed with the City Clerk, exclusive of the day of filing, it shall become law.

#### **Section 4.1 POWERS OF THE MAYOR, Subsection B.**

**B.** The Mayor shall be a member of and preside over the City Council, having the power to propose legislation; represent the City in intra-governmental and intergovernmental relationships; appoint with the consent of the Council the members of citizen advisory boards and commissions; make appointments and perform duties pursuant to federal and state law; present an annual state of the City message, break tie votes, veto legislation except for any City Council action which removes the City Manager or the City Attorney, convene the Council in special session and perform other duties specified by the Council.

##### **Ballot Proposition**

Should Sections 3.7 A, 3.5 E and 4.1 B of the City Charter, relating to the appointment and removal of the City Attorney, be amended to provide that the City Attorney is appointed by the City Council solely on the basis of legal experience and qualifications; may be removed by resolution approved by a majority vote of City Council; and to provide that the Mayor shall not have any veto power over City Council

for actions which remove the City Attorney?

YES ( )

NO ( )

**AMENDMENT NO. 6**

**Text of Amendment**

Amending Sections 3.9 C and 3.18 of the City Charter, relating to the use of ordinances, to read in pertinent part as follows:

**Section 3.9 ORDINANCES IN GENERAL, Subsection C.**

**C. Actions Requiring Ordinances.** In addition to other acts required by law or by specific provision of this charter to be done by ordinance, the Council may exercise the following powers by ordinance only:

1. Amend, extend, or repeal any ordinance previously adopted;
2. Prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
3. Adopt Civil Service Rules.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

**Section 3.18 LEASE; FRANCHISE; AND CONVEYANCE.**

The right of control, ownership and use of streets, alleys, parks and public places of the City is declared to be inalienable except as passed by the Council by resolution or by ordinance, or as otherwise required by law or specific provision of this charter; and except for uses of less than thirty days which may have a separate approval process as established by resolution or by ordinance.

Any ordinance or resolution providing for the conveyance, lease, or grant of a franchise regarding the property of the City shall provide for payment to the City of a reasonable fee as consideration for that conveyance, lease, or franchise. In addition, any ordinance or resolution providing for the lease or franchise shall provide that:

1. At the termination of the lease or franchise, the property involved, together with any improvements thereto, made or erected during the term of the lease or franchise, shall (either without further compensation or upon payment of a fair valuation therefore as determined by the terms of the ordinance), become the property of the City; and
2. Every lease or franchise may be revoked by the City if necessary to secure efficiency of public service at a reasonable rate, or to assure that the property is maintained in good order throughout the life of the grant.

**Ballot Proposition**

Should Sections 3.9 C and 3.18 of the City Charter, relating to the use of ordinances, be amended to allow the City Council the option of utilizing a resolution for acts that do not specifically require the use of an ordinance pursuant to other applicable law, including the conveyance, lease or grant of a franchise of City property, the adoption of an administrative code, and the establishment, abolishment or alteration of any City departments?

YES ( )  
NO ( )

**AMENDMENT NO. 7**  
**Text of Amendment**

Amending Section 7.1 and adding Section 7.1 A of the City Charter, relating to the City's fiscal and budget year, to read in pertinent part as follows:

**Section 7.1 FISCAL YEAR.**

The fiscal year and the budget year of the City shall begin on September 1st and end on the succeeding August 31st.

**A. Change in Fiscal Year.** The Council, by ordinance, is authorized to provide for a change in the City's fiscal and budget year from the present period to the period October 1 through September 30, in one or more stages, and to provide for necessary and appropriate changes to be made in the dates for preparation and adoption of the budget and other related matters. In order to provide any necessary financing during the transition or changeover period, the Council may, by ordinance, authorize the borrowing of money by the issuance of general obligation bonds or promissory notes and the levying of a sufficient tax to pay the interest thereon and to provide the required sinking fund to pay the principal thereof, and/or may authorize the payment of all or any part of said interest and principal from any other anticipated tax receipts or other available funds.

**Ballot Proposition**

Should Section 7.1 of the City Charter be amended, and Section 7.1 A, Change in Fiscal Year, be created, to allow the City to change, by ordinance, the beginning date of the fiscal and budget year to October 1 and to allow for the necessary and appropriate actions to be taken to effectuate the change?

YES ( )  
NO ( )

**AMENDMENT NO. 8**  
**Text of Amendment**

Amending Sections 7.2, and 7.3 A, B, C and D of the City Charter, relating to the City's budget procedures, to read in pertinent part as follows:

**Section 7.2 BUDGET.**

The budget must present a complete financial plan for the fiscal year, and must contain all elements required under State law.

**Section 7.3 BUDGET PROCEDURES, Subsections A, B, C and D.**

The procedures here stated shall govern adoption of the annual budget and the appropriations of monies pursuant thereto.

**A. Department Estimates.** Annually, but not later than three months before the first day of the City's fiscal and budget year, administrative units of the City shall transmit estimates of their budgetary requirements and descriptions of their work programs to the Office of Management and Budget and to the City Manager. The work programs shall include all requested appropriations for the departments' operation and maintenance, including capital equipment, construction, and acquisition.

**B. Public Hearing.** After its presentation to the Council, at least one public hearing on the budget shall be held prior to its adoption; and notice of that public hearing shall be published in accordance with state law. The proposed budget shall be made available for examination at the office of the City Clerk, in accordance with State law.

**C. Changes.** After the required public hearing, the governing body may make any changes to the budget in accordance with and/or permitted by State law.

**D. Adoption.** The budget shall be adopted by resolution, subject to the Mayor's veto, not later than the day before the first day of the City's fiscal and budget year; but, in the event the budget is not adopted, the appropriation for personnel and essential operating supplies made in the previous year shall be extended until the new budget is adopted.

Ballot Proposition

Should Sections 7.2, and 7.3 A, B, C and D of the City Charter, relating to the City's budget adoption procedures and requirements, be amended to require only that which is required by State law?

YES ( )

NO ( )

**ADJOURN**

Motion made by Representative Romero, seconded by Representative Limón, and unanimously carried to **ADJOURN** this meeting at 11:12 a.m.

NOT PRESENT FOR THE VOTE: Representatives Ordaz and Niland

ABSENT: Representative Svarzbein

APPROVED AS TO CONTENT:

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Richarda Duffy Momsen, City Clerk