

OSCAR LEESER
MAYOR

TOMMY GONZALEZ
CITY MANAGER



CITY COUNCIL
PETER SVARZBEIN, DISTRICT 1
ALEXSANDRA ANNELLO, DISTRICT 2
CASSANDRA HERNANDEZ, DISTRICT 3
JOE MOLINAR, DISTRICT 4
ISABEL SALCIDO, DISTRICT 5
CLAUDIA L. RODRIGUEZ, DISTRICT 6
HENRY RIVERA, DISTRICT 7
CISSY LIZARRAGA, DISTRICT 8

CITY COUNCIL WORK SESSION MINUTES
January 31, 2022
COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY
9:37 A.M.

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The City Council of the City of El Paso met at the above place and date. The meeting was called to order at 9:37 a.m. Mayor Oscar Leeser was present and presiding. The following Council Members answered roll call: Peter Svarzbein, Aleksandra Annello, Joe Molinar, Isabel Salcido, Claudia Rodriguez, Henry Rivera, and Cissy Lizarraga. Cassandra Hernandez participated via videoconference.
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AGENDA

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1. Presentation and discussion by the COVID-19 Response and Recovery Cross-Functional Team providing information on key activities, efforts, and processes.

1. Overview (Tommy Gonzalez)

Mr. Tommy Gonzalez, City Manager, introduced the item by mentioning the high spike in new cases and hospitalizations. Mr. Gonzalez stated that the number of 2,300 new cases was the highest surge since the pandemic began. He continued by providing statistics related to current vaccination rates and said 95% of the community had received a first dose and 76% was fully vaccinated. Mr Gonzalez ended the overview by listing the various City locations offering free COVID-19 vaccines by appointment.

2. City Attorney Overview (Karla Nieman)

- a. State Disaster Declarations
- b. Emergency Ordinances
- c. Greg Abbott, in his official capacity as Governor of Texas v. City of El Paso and Statewide Mask Mandate Litigation
- d. Additional Updates

Ms. Karla Nieman, City Attorney, provided an update on the upcoming renewal of the State Disaster Declaration and said she anticipates the statewide mask mandate litigation will be going to the Texas Supreme Court. Ms. Nieman provided statistical information related to COVID-19 citations filed in the Municipal Courts through January 21, 2022 and answered questions posed by Council members regarding City Boards and Commissions required to meet in person.

3. Team Lead Report:

- a. Health Focus (Hector Ocaranza, M.D.)
- b. Data Analysis (David Coronado)

- c. Financial Focus (Robert Cortinas)
- d. Community Vulnerabilities and Human Services (Nicole Ferrini)
 - 1) Discussion and action authorizing the City Manager or his designee to establish appropriations in the amount of \$9,000,000.00, whereas the City of El Paso is the recipient of the American Rescue Plan Act (“ARPA”) grant funds in the amount of \$154,365,135, the City Council approves the appropriation of the grant funds from the Coronavirus State and Local Fiscal Recovery Funds in accordance with the requirements stipulated by the American Rescue Plan Act and federal guidelines in the Final Rule to respond to the COVID-19 public health emergency or its negative economic impacts.

Dr. Hector Ocaranza, Public Health Authority, briefed Council members on the number of positive cases, which grew 400% in 3 weeks, adding that hospitalizations grew 58% in 3 weeks. Dr. Ocaranza strongly recommended that people receive a booster dose of the vaccine as added protection against Omicron and to continue practicing prevention through non-pharmacological interventions

Mr. David Coronado, International Bridges, and Economic Development Managing Director, continued the presentation by mentioning that the Center for Disease Control (CDC) had approved 9 vaccines that comply with the vaccination requirements for cargo crossings. Mr. Coronado also highlighted good news by announcing that personal vehicle crossings were very close to what they were before the pandemic, unemployment numbers had declined, and an increase of 28% sales tax growth was observed in November.

Mr. Robert Cortinas, Chief Financial Officer, took over the presentation to go over key changes to the American Rescue Plan (ARPA) spending guidelines effective on April 1, 2022, which are set to expand the list of uses for COVID-19 response and its economic impact, thus, providing more flexibility for local governments.

Ms. Nicole Ferrini, Community and Human Development Director, finalized this portion of the presentation by providing information on 3 categories of pressing vulnerabilities which have escalated along with the rise in COVID-19 cases: housing and homelessness, family stability, and household stability. Ms. Ferrini went over a list of urgent community needs and asked Council members to approve the appropriation of \$9,000,000.00 from ARPA Grant Funds as listed on the following Resolution to address these needs.

Mayor Leeser and Representatives Svarzbein, Annelo, Molinar, Rivera, and Lizarraga commented.

R E S O L U T I O N

WHEREAS, on March 13, 2020 the President of the United States declared a national emergency, Governor of the State of Texas declared a state of disaster, and the Mayor of the City of El Paso declared a local state of disaster in relation to Coronavirus Disease 19 (COVID-19); and

WHEREAS, on March 17, 2020 City Council issued an Emergency Ordinance Instituting Emergency Measures due to a Public Health Emergency (“Emergency Ordinance”); and

WHEREAS, on May 11, 2020 City Council approved appropriations for the CARES Act funds received by the City for eligible expenses from March 1, 2020 through August 31, 2021; and

WHEREAS, the City has on going COVID-19 related expenditures that have continued into FY 2022; and

WHEREAS, the COVID-19 pandemic is a public health crisis that has required immediate action from the City to relieve the emergency necessity of the municipality's residents and to protect the health and safety of the community, resulting in expenditures by the City to respond to the COVID-19 public health emergency; and

WHEREAS, on March 11, 2021, the federal government enacted the American Rescue Plan Act ("ARPA") which established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund ("CSLFRF"); and

WHEREAS, the City is a recipient of ARPA grant in the amount of \$154,365,135 from the fund to be received in two tranches, with the first received on May 12, 2021 in the amount of \$77,172,567.50, and the second half of equal value is expected to be received on or about May 12, 2022; and

WHEREAS, City Council has previously appropriated ARPA grant funds on January 18, 2022 and July 27, 2021; and

WHEREAS, the City Council desires to appropriate the ARPA grant funds in accordance with the requirements stipulated in the U.S. Department of Treasury's Final Rule ("Final Rule").

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

THAT as the recipient of ARPA grant funds in the above stated amounts, the City Council approves the appropriation of \$9,000,000 of the grant funds from the CSLFRF to fund services addressing Community Vulnerability: Homelessness and Family Stability in response to the COVID-19 public health crisis.

THAT, the City Manager, or designee, be authorized to effectuate any budget transfers and execute any contracts and/or related documents necessary to ensure that the ARPA grant funds are properly expended in accordance with the requirements stipulated by the American Rescue Plan Act and federal guidelines in the Final Rule.

Motion made by Representative Annelo, seconded by Representative Rivera, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annelo, Hernandez, Molinar, Salcido Rodriguez, Rivera, and Lizarraga

NAYS: None

4. City Manager Wrap-up (Tommy Gonzalez)

City Manager Gonzalez wrapped up the presentation by explaining that new positions had been added to conduct contact tracing and community outreach and reported that there were over 300 City employees out due to COVID-19. He ended by saying that the City was working through the list of priorities and urgent needs while closely monitoring all related costs.

NO FURTHER ACTION was taken on this item.

ITEMS 2 THROUGH 4 WERE TAKEN TOGETHER

2.

ORDINANCE NO. 019283

**AN EMERGENCY ORDINANCE RE-ENACTING EMERGENCY ORDINANCE NO. 019035
EXTENDING A DISASTER DECLARATION DUE TO A PUBLIC HEALTH EMERGENCY**

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to COVID-19; and

WHEREAS, on March 13, 2020, the Mayor signed a Local Emergency Declaration and requested the aid of the State Government pursuant to Texas Government Code Section 418.108; and

WHEREAS, pursuant to El Paso City Code Section 2.48.020(C), a local state of disaster declaration may not be continued or renewed for a period in excess of seven days except by or with the consent of City Council; and

WHEREAS, City Charter Section 3.10 allows for the City Council to adopt an emergency ordinance to meet a public emergency affecting life, health, property or the public peace; and

WHEREAS, on March 17, 2020, the City Council adopted Emergency Ordinance No. 019035, Extending a Disaster Declaration Due to a Public Health Emergency; and

WHEREAS, since March 2020, El Paso City Council has re-enacted Emergency Ordinance No. 019035 monthly, with the most recent re-enactment taking place on January 4, 2022; and

WHEREAS, as of January 20, 2022, the number of COVID-19 active cases in El Paso is over 23,479; and

WHEREAS, pursuant to City Charter Section 3.10, every emergency ordinance shall stand repealed automatically as of the 31st day following the date on which it was adopted, but may be re-enacted to continue a Disaster Declaration; and

WHEREAS, Emergency Ordinance No. 019277 which re-enacts Emergency Ordinance No. 019035 is set to expire on February 3, 2022; and

WHEREAS, the condition necessitating a declaration of a state of disaster continues to exist.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EL PASO, TEXAS:

1. That the state of disaster proclaimed for the City of El Paso by the Mayor on March 13, 2020, and extended by Emergency Ordinance No. 019035, is hereby re-enacted and shall continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by City Council, whichever is sooner.
2. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor and pursuant to City Charter Section 3.10.

3.

ORDINANCE NO. 019284

AN EMERGENCY ORDINANCE RE-ENACTING AND AMENDING EMERGENCY ORDINANCE NO. 019036 INSTITUTING EMERGENCY MEASURES, TO INCLUDE THAT BOARDS AND COMMISSIONS MAY MEET BY VIDEOCONFERENCE IF NOT REQUIRED TO MEET IN PERSON UNDER STATE LAW, AS RE-ENACTED, RESTATED AND AMENDED BY EMERGENCY ORDINANCE NO. 019151; AND FURTHER RE-ENACTED AND AMENDED BY EMERGENCY ORDINANCE NOS. 019156, 019169, 019191 AND 019278; PENALTY AS PROVIDED IN SECTION 8

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to COVID-19; and

WHEREAS, by proclamation issued on March 13, 2020, the Mayor declared a local state of disaster for the City of El Paso resulting from a public health emergency; and

WHEREAS, on March 17, 2020, the City Council, pursuant to City Charter Section 3.10, adopted Emergency Ordinance No. 019036 to meet a public emergency affecting life, health, property or the public peace; and

WHEREAS, since March 2020, City Council has re-enacted Emergency Ordinance No. 019036 monthly, with the most recent re-enactment, re-statement and amendment taking place on March 16, 2021 and with the most recent re-enactment taking place on January 4, 2022; and

WHEREAS, pursuant to City Charter Section 3.10, every emergency ordinance shall stand repealed automatically as of the 31st day following the date on which it was adopted, but may be re-enacted if the emergency still exists; and

WHEREAS, a disaster continues to exist and requires that certain emergency measures be taken to meet a public emergency affecting life, health, property or the public peace; and

WHEREAS, the City Council desires to implement additional protections for City Employees and appointees of boards, commissions and committees in light of a recent spike in COVID-19 cases by enabling as many meetings as possible to take place remotely; and

WHEREAS, the City Council desires to re-enact and amend Emergency Ordinance No. 019036, as amended, which shall remain in effect until otherwise terminated, re-enacted, or superseded by a conflicting El Paso Local Health Authority order, or state or federal law or order.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EL PASO, TEXAS:

- 1. That Section 2 of Emergency Ordinance No. 019036 as previously re-enacted, restated and amended, is hereby amended to read as follows:**
2. CITY BOARDS AND COMMISSIONS
 - a) Unless required by State law to abide by all provisions of the Texas Open Meetings Act, Texas Government Code Section 551.001 et seq. ("TOMA"), all City of El Paso boards, commissions and committees may meet by videoconference while this ordinance is in

effect, suspending only the in-person requirement in any provision in the establishing ordinance, resolution or bylaws that require such board, commission or committee to abide by TOMA.

- b) Any board, commission or committee that must abide by TOMA pursuant to State law must meet in accordance with Texas law, and shall abide by all relevant City requirements to ensure the safety of those in attendance.
- 2. All other provisions of **Emergency Ordinance No. 019036, as re-enacted, restated and amended by Emergency Ordinance No. 019151, and further re-enacted and amended by Emergency Ordinance Nos. 019156, 019169 and 019191**, penalty as provided in Section 8, shall remain in full force and effect and continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by the City Council, whichever is sooner.
- 3. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor, pursuant to City Charter Section 3.10.

4.

ORDINANCE 019285

**AN EMERGENCY ORDINANCE
RE-ENACTING EMERGENCY ORDINANCE NO. 019241;
ALLOWING TEMPORARY USES ON THE PUBLIC RIGHT OF WAY AND PRIVATE
PROPERTY BY SUSPENDING VARIOUS CITY ORDINANCES; PENALTY AS PROVIDED IN
SECTION 6.**

WHEREAS, on March 13, 2020, the Governor of the State of Texas declared a state of disaster and the President of the United States of America declared a national emergency in relation to COVID-19; and

WHEREAS, by proclamation issued on March 13, 2020, the Mayor declared a local state of disaster for the City of El Paso resulting from a public health emergency; and

WHEREAS, on March 17, 2020, El Paso City Council adopted Emergency Ordinance No. 019035 extending the City's Disaster Declaration due to a Public Health Emergency; and

WHEREAS, since March 2020, El Paso City Council has re-enacted Emergency Ordinance No. 019035 monthly basis, with the most recent re-enactment taking place on January 5, 2021; and

WHEREAS, Governor Abbott has similarly renewed the State's COVID- 19 Disaster Declaration, with the most recent extension taking place on January 5, 2021; and

WHEREAS, El Paso City Charter Section 3.10 allows City Council to adopt an emergency ordinance to meet a public emergency affecting life, health, property, or the public peace; and

WHEREAS, the El Paso City Council desires to support restaurants and similar establishments in their efforts to safely operate during the COVID-19 pandemic by further facilitating outdoor service and dining opportunities; and

WHEREAS, on October 11, 2021, City Council enacted an Emergency Ordinance Instituting Emergency Measures to Allow Temporary Uses on the Public Right of Way and Private Property by Suspending Various City Ordinances ("**Emergency Ordinance No. 019241**"); and

WHEREAS, pursuant to City Charter Section 3.10, every emergency ordinance shall stand repealed automatically as of the 31st day following the date on which it was adopted, but may be re-enacted if the emergency still exists; and

WHEREAS, City Council re-enacted Emergency Ordinance No. 019241, with the most recent re-enaction taking place on January 4, 2022 (Ord. No. 019279) ("**Re-enacting Ordinance**"); and

WHEREAS, a disaster continues to exist and requires that certain emergency measures be taken to meet a public emergency affecting life, health, property or the public peace; and

WHEREAS, City Council desires to re-enact its October 11, 2021, Emergency Ordinance No. 019241, which shall take effect immediately, and remain in effect until March 3, 2022 or until otherwise terminated, re-enacted, or superseded by a conflicting El Paso Local Health Authority order, or state or federal law or order.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EL PASO, TEXAS:

1. That Emergency Ordinance No. 019241, is re-enacted and shall remain in full force and continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by the City Council, whichever is sooner;
2. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor and pursuant to City Charter Section 3.10.

Motion made by Representative Molinar, seconded by Representative Lizarraga, and unanimously carried to **APPROVE** the Emergency Ordinances.

AYES: Representatives Svarzbein, Annelo, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga.

NAYS: None

Mayor Leeser consented to the adoption of the Emergency Ordinances.

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5. **ITEM:** Discussion and action on proposed amendments to the City Charter through a November 2022 Charter Election and to authorize the City Attorney to engage outside counsel to assist with the Charter amendments.

Representatives Annelo, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga commented.

The following City staff members commented:

- Ms. Karla Nieman, City Attorney
- Ms. Laura Cruz-Acosta, Strategic Communications Director

1ST MOTION

Motion made by Representative Hernandez, seconded by Representative Svarzbein and unanimously carried that the Charter Committee **REVIEW** section 3.11A REFERENDUM of the Charter to allow for a referendum regarding ordinances imposing a fee for maintenance of City rights of way and allows for a referendum using best practices.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

2ND MOTION

Motion made by Representative Annello, seconded by Representative Svarzbein, and unanimously carried to **DIRECT** the Ad Hoc Charter Advisory Committee to review Section 2.4B DISTRICTING COMMISSION, to look at an independent redistricting committee process.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

3RD MOTION

Motion made by Representative Annello, seconded by Representative Molinar to **DIRECT** the Ad Hoc Charter Advisory Committee to review Section 3.6 LEGISLATIVE COMMITTEES, to be chaired by City Council members and determine which departments should be required.

AYES: Representatives Annello, Molinar, and Rivera

NAYS: Representatives Svarzbein, Hernandez, Salcido, Rodriguez, and Lizarraga

THE MOTION FAILED.

4TH MOTION

Motion made by Representative Annello, seconded by Representative Molinar to **DIRECT** the Ad Hoc Charter Advisory Committee to review the City Department Head positions that report to the City Council vs the City Manager.

AYES: Representatives Svarzbein, Annello, and Molinar

NAYS: Representatives Hernandez, Salcido, Rodriguez, Rivera and Lizarraga

THE MOTION FAILED.

5TH MOTION

Motion made by Representative Annello, seconded by Representative Molinar and carried to **DIRECT** the Ad Hoc Charter Advisory Committee to review Section 3.11 INITIATIVE, citizen petition process for benchmarking purposes.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, and Rodriguez

NAYS: Representatives Rivera and Lizarraga

6TH AND FINAL MOTION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Salcido and unanimously carried to **AUTHORIZE** the City Attorney to retain outside counsel to assist with the Charter amendments.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

6. Approve a plan of action for safeguarding the buildings in the Union Plaza Area that are exposed to the elements and continued deterioration due to existing partial demolition. This is following Council directive.

Representative Svarzbein commented.

1ST MOTION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Salcido, and carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 12:24 p.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss the executive session items:

Section 551.071 CONSULTATION WITH ATTORNEY

AYES: Representatives Svarzbein, Hernandez, Salcido, Rivera, and Lizarraga

NAYS: Representatives Annello and Molinar

NOT PRESENT FOR THE VOTE: Representative Rodriguez

2ND AND FINAL MOTION

Motion made, seconded and unanimously carried to **ADJOURN** the Executive Session at 4:12 p.m. and **RECONVENE** the meeting of the City Council.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

NO FURTHER ACTION was taken on this item.

The Work Session was **RECESSED** at **11:57 A.M.** for a break.

The Work Session was **RECONVENED** at **12:20 P.M.**

EXECUTIVE SESSION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Salcido, and carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 12:24 p.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss the executive session items:

Section 551.071 CONSULTATION WITH ATTORNEY

Section 551.072 DELIBERATION REGARDING REAL PROPERTY

Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

AYES: Representatives Svarzbein, Hernandez, Salcido, Rivera, and Lizarraga

NAYS: Representatives Annello and Molinar

NOT PRESENT FOR THE VOTE: Representative Rodriguez

Motion made, seconded and unanimously carried to **ADJOURN** the Executive Session at 4:12 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga
NAYS: None

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EX1. Application of El Paso Electric Company to Change Rates, Public Utility Commission of Texas Docket No. 52195. Matter No. 21-1008-174 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Rivera and unanimously carried that the City Attorney be **AUTHORIZED** to file a motion to request mediation and negotiate to resolve all issues in Texas Public Utility Commission Docket No. 52195 (SOAH Docket 473-21-2606) Application of El Paso Electric to Change Rates.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga
NAYS: None

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EX2. Discussion regarding the Purchase, Lease, and Exchange of Real Property located near Central El Paso, Texas. Matter No. 21-1004-1257 (551.071)

NO ACTION was taken on this item.

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EX3. Economic Incentives for a Manufacturing Company to be located in the City of El Paso. Matter No. 22-1007-2856 (551.087)

NO ACTION was taken on this item.

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EX4. Discussion on a potential waste management opportunity. Matter No. 22-1007-2851 (551.071) (551.087)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera, and unanimously carried that the City Manager or designee be **AUTHORIZED**, in consultation with the City Attorney, to sign a Non-Disclosure Agreement to facilitate the continued economic development negotiations associated with a potential waste management opportunity.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera and Lizarraga
NAYS: None

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EX5. Economic Incentives for a Mixed-Use Development located in the City of El Paso. Matter No. 21-1007-2803 (551.087)

NO ACTION was taken on this item.

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EX6. Discussion regarding the potential sale/purchase, exchange, lease, or value of real property located in Northeast El Paso. Matter No. 22-1009-1131 (551.071)

NO ACTION was taken on this item.
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ADJOURN

Motion made by Representative Annello, seconded by Representative Molinar and unanimously carried to **ADJOURN** the meeting at 4:15 p.m.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk