

OSCAR LEESER
MAYOR

TOMMY GONZALEZ
CITY MANAGER



CITY COUNCIL
BRIAN KENNEDY, DISTRICT 1
ALEXSANDRA ANNELLO, DISTRICT 2
CASSANDRA HERNANDEZ, DISTRICT 3
JOE MOLINAR, DISTRICT 4
ISABEL SALCIDO, DISTRICT 5
ART FIERRO, DISTRICT 6
HENRY RIVERA, DISTRICT 7
CHRIS CANALES, DISTRICT 8

CITY COUNCIL WORK SESSION MINUTES
January 18, 2022
COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY
9:05 A.M.

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The City Council of the City of El Paso met at the above place and date. Meeting was called to order at 9:17 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Peter Svarzbein, Joe Molinar, Isabel Salcido, Claudia Rodriguez, Henry Rivera, and Cissy Lizarraga. Alexandra Annelo and Cassandra Hernandez joined via videoconference. Early departure: Isabel Salcido at 3:40 p.m. NOTE: The meeting was reconvened on January 19, 2022 with all members present except Isabel Salcido who requested to be excused.

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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, began the presentation by explaining that number of new COVID-19 cases were exceeding 1,000 daily and hospitalizations were on the increase, thus causing a strain on the healthcare system, similar to the rest of the nation. Mr. Gonzalez added that 60% of these cases were breakthrough cases and explained that while the Omicron strain was more contagious, it was not as deadly. He emphasized the need to protect ourselves by using safeguards. Mr. Gonzalez stated that we are still leading the nation in vaccination rates with 33% of the 16-year-olds and older population fully vaccinated and 67% of 5-year-olds and older fully vaccinated, and now 12-year-old children eligible for boosters. He said the demand for testing reduced from 17,000 to 4,000 and added there are extended hours of operation at testing sites.

2. City Attorney Overview (Karla Nieman)

- a) Emergency Measures Ordinance Amendment.**
- b) Greg Abbott, in his official capacity as Governor of Texas, v. City of El Paso & Statewide Mask Mandate Litigation**
- c) Federal Vaccine Mandate**

Ms. Karla Nieman, City Attorney, continued the presentation and provided information on the proposed amendment to the emergency ordinance allowing certain boards and commissions to meet virtually unless required to meet in person by state law.

In regards to the mask mandate litigation, there was no update, however, in Harris County the court ruled against the Governor. Ms. Nieman ended the presentation by mentioning that the State Court of the United States had blocked the vaccine mandate on January 13, 2022, for employers with more than 100 employees but upheld the mandate for healthcare workers at facilities accepting Medicare/Medicaid.

3. Team Lead Report:

a) Health Focus (Hector Ocaranza, M.D.)

Dr. Hector Ocaranza, Public Health Authority, continued the presentation by highlighting a sharp increase in cases due to the Omicron variant. He recommended testing, and staying home if symptomatic, and mentioned that detailed guidelines were posted on the EPSTRONG website. Dr. Ocaranza explained that some positive results were reported from at home testing and added that breakthrough infections were milder than the Delta variant. He mentioned that even though the number of hospitalizations were increasing, the booster vaccines were keeping people out of the hospital. Dr. Ocaranza mentioned that he was working closely with schools to provide recommendations for keeping kids safe given pediatric cases were also on the rise particularly among middle to high-school-age children.

4. City Manager Wrap-up (Tommy Gonzalez)

Mr. Gonzalez closed the presentation by restating that although the Omicron variant was not as severe as Delta, he encouraged following protocols such as healthy living, use of face masks, social distancing, hand washing, therapeutics and quarantining for 5 days if infected.

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

Fire Chief Mario D'Agostino commented.

NO ACTION was taken on this item.

2.

RESOLUTION

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, on July 27th, 2021 the City Council appropriated \$15,000,000 of ARPA grant funds; 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 the American Rescue Plan Act ("ARPA") grant funds in the amount of \$154,365,135, the City Council approves the appropriation of \$7,821,018 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 cover expenses incurred to respond to the COVID-19 public health crisis.

THAT, the above appropriation was obligated during the period starting March 3, 2021, and ending December 31, 2021.

THAT, the instant and previous appropriations are made in compliance with the Final Rule.

THAT, future appropriations of the remaining CSLFRF funds shall be appropriated in a manner aligning to the needs and requirements of the City and in compliance with the Final Rule guidance.

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 American Rescue Plan Act ("ARPA") grant funds are properly expended to respond to the COVID-19 public health emergency.

The following City staff members presented a PowerPoint presentation on ARPA funds and COVID expenditures (copy on file in the City Clerk's Office):

- Mr. Robert Cortinas, Chief Financial Officer
- Fire Chief Mario D'Agostino
- Nicole Cote, Office of Management and Budget Director

The following City staff members commented:

1. Ms. Laura Cruz-Acosta, Strategic Communications Director
2. Mr. Tommy Gonzalez, City Manager
3. Ms. Nicole Ferrini, Community and Human Development Director

Representatives Annelo and Hernandez commented.

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

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

NAYS: None.

NOT PRESENT FOR THE VOTE: Representative Rodriguez

3. Discussion and action on proposed amendments to the City Charter through a November 2022 Charter Election.

The following City staff members presented a PowerPoint presentation (copy on file in the City Clerk's Office).

- Ms. Karla Nieman, City Attorney
- Ms. Araceli Guerra, Managing Director of Internal Services
- Ms. Claudia Cancellare, Employee Relations Officer
- Ms. Laura Cruz-Acosta, Strategic Communications Director

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

The following City staff members commented:

1. Ms. Laura D. Prine, City Clerk
2. Mr. Tommy Gonzalez, City Manager

1ST MOTION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera and carried to **DIRECT** the Ad Hoc Charter Review Committee to review:

Article IV Section 4.1 B POWERS OF THE MAYOR to clarify the role intergovernmental relationships, and review the Mayor's power to "break tie votes", veto legislation and to allow the Mayor the ability to vote on all matters before the Council in order to align with best practices.

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

NAYS: Representative Molinar

2ND MOTION

Motion made by Representative Annelo, seconded by Representative Svarzbein and unanimously carried to **DIRECT** the Ad Hoc Charter Review Committee to review the following:

1. **ARTICLE III SECTION 3.1 – CREATION:COMPOSITION;POWERS AND DUTIES** – to allow each Representative the discretion and full authority to employ up to 2 full time employees in each Council office.
2. **ARTICLE II SECTION 2.1 A – CITY ELECTIONS** – to evaluate the date of Municipal Elections

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

NAYS: None

3RD MOTION

Motion made by Representative Molinar, seconded by Representative Annelo to **DIRECT** the Ad Hoc Charter Review Committee to review the following:

ARTICLE III SECTION 3.7 A - APPOINTMENT AND REMOVAL OF THE CITY ATTORNEY AND ARTICLE V SECTION 5.1 APPOINTMENT; QUALIFICATIONS; COMPENSATION – to limit the terms of the City Attorney and City Manager appointments to a maximum of 8 years

AYES: Representatives Annelo and Molinar

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

THE MOTION FAILED.

4TH MOTION

Motion made by Representative Molinar, seconded by Representative Annelo to **DIRECT** the Ad Hoc Charter Review Committee to review the following:

ARTICLE III SECTION 3.7 A - APPOINTMENT AND REMOVAL OF THE CITY ATTORNEY and ARTICLE V CITY MANAGER, SECTION 5.1 APPOINTMENT; QUALIFICATIONS; COMPENSATION – to include salary caps for the compensation of the City Attorney and City Manager

AYES: Representatives Annelo and Molinar

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

THE MOTION FAILED.

5TH MOTION

Motion made by Representative Lizarraga, seconded by Representative Salcido, and unanimously carried to **DIRECT** the Ad Hoc Charter Review Committee to review the following:

ARTICLE II SECTION 2.4 A – NUMBER OF DISTRICTS – to replace the language as follows: At such time when the results of a decennial United States census shows the population of the City to be "~~one million~~ **nine hundred thousand** or more, the Council may take appropriate action to increase the number of District Representatives from eight to ~~ten~~ **nine**.

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

NAYS: None

6TH MOTION

Motion made by Representative Lizarraga, seconded by Representative Salcido, and unanimously carried to **DIRECT** the Ad Hoc Charter Review Committee to review the following:

ARTICLE III SECTION 3.1 – CREATION; COMPOSITION; POWERS AND DUTIES – to replace the language as follows: Each Representative shall have the discretion and sole authority to appoint and remove a legislative aide **Chief of Staff ...**

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

NAYS: None

7TH MOTION

Motion made by Representative Lizarraga, seconded by Representative Salcido, and unanimously carried to **DIRECT** the Ad Hoc Charter Review Committee to review the following:

ARTICLE VI SECTION 6.2-2 K UNCLASSIFIED SERVICES – to replace the language as follows: A person hired solely as a District Representative’s legislative aide **Chief of Staff or other district employee** for a limited period of the term of office for that District Representative.

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

NAYS: None

8TH MOTION

Motion made by Representative Rodriguez, seconded by Representative Salcido, and carried to **DIRECT** the Ad Hoc Charter Review Committee to review the following:

ARTICLE II SECTION 2.1B – OFFICERS ELECTED – to remove the 10-year cap by stating that the two four-year terms are not impacted when a Council member is filling an unexpired term

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

NAYS: Representative Molinar

9TH MOTION

Motion made by Representative Molinar, seconded by Representative Rodriguez, and unanimously carried to **RECONSIDER** the agenda item 3.

10TH AND FINAL MOTION

Motion made by Representative Rodriguez, seconded by Representation Molinar, and unanimously carried to **DIRECT** the Ad Hoc Charter Review Committee to review the recommendations presented by Staff related to:

1. Regular Council Meeting Schedule – amend to allow Council to adjust for emergency or City holidays; to allow less than a majority to call special meetings

- 2. Emergency Ordinance Requirements – amend to align notice to State Law which requires 1 hour
- 3. Clean-up regarding printed copies of City Ordinances – amend to make available electronically
- 4. Members of Council Salaries – amend to prevent decrease in income and provide across the board increases
- 5. Civil Service Review
 - a. Section 6.1-4 CIVIL SERVICE COMMISSION MEMBER QUALIFICATIONS - Amend clarification for professional or managerial qualifications to expand eligible appointees
 - b. Section 6.1-12 – CIVIL SERVICE HEARING OFFICERS – amend to clarify solicitation process through city procurement
 - c. Section 6.2 – DIVISION OF CIVIL SERVICES – amend to clarify definition and positions considered unclassified and align to best practices
 - d. Section 6.7-1;6.8-1 – amend to streamline process to be competitive in the market; remove examinations requirement to align with best practices.
 - e. Section 6.13-11 – PD/FD PENSION CAP – amend to eliminate the cap to align to State Statute establishing fund/allow for changes to City contribution in accordance with State Law
- 6. Real Estate – Section 3.8 – amend to make it more transparent, identifying which real estate transaction are by resolution, such as easement under \$50,000, certain leases and review any other transaction that are allowed

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

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 The Work Session was **RECESSED** at 11:31 a.m. for lunch.

The Work Session was **RECONVENED** at 12:09 p.m.

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4. RESOLUTION

WHEREAS, the City Council is expecting to call a Special Election in November of 2022 in order to make certain amendments to the City Charter; and

WHEREAS, the City Council desires the assistance of members of the public to review and make recommendations on potential charter amendments for the special election.

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

- 1. That there is hereby created a 2022 Ad Hoc Charter Advisory Committee (the “Committee”) composed of nine members who are representative of the community and residents of El Paso. The Members of City Council shall each recommend one Committee member, to be appointed in the manner provided by the City Charter Section 3.7(B).
- 2. The Committee shall begin its work as soon as a quorum of members are appointed.

3. The Committee shall appoint a Chair and a Vice-Chair by a simple majority vote of members present at its first meeting. The Chair shall establish such procedures as are appropriate for the orderly consideration of the business of the committee and shall preside over the meetings.
4. The Committee will review proposed charter amendments approved by a majority vote of the City Council to be submitted to the Committee; and shall consider public input regarding potential amendments to the Charter.
5. The Committee shall strive to meet at least once every two weeks, but in no instance meet less than once per month.
6. The Committee shall be subject to any federal, state or local emergency guidance, proclamation, ordinance and City Policy relating to the meeting of Boards and Commissions.
7. The Committee will present its final recommendations to the City Council no later than July 5, 2022. The committee may be required to provide status reports to City Council at regular intervals leading up to its final recommendations report.
8. All meetings of the Committee shall be open to the public in the manner required by any applicable City Council Ordinance or rule, and notice of all meetings shall be posted at least seventy-two hours prior to the meeting.
9. The City Manager shall provide staffing and administrative assistance to the Committee for the purpose of scheduling and giving notice of the meetings, the preparation of minutes of each meeting, and the provision of other reasonable support services.
10. The members of the Committee shall not be subject to the financial disclosure requirements of Section 2.92.050 of the City Code, but shall otherwise be subject to all other applicable provisions of City Code Chapter 2.92 (Ethics Ordinance), including completing the training required by section 2.92.090 and any other required training.
11. The Ad Hoc Charter Advisory Committee shall automatically dissolve upon the completion of its business.

Ms. Karla Nieman, City Attorney, commented.

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

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

NAYS: None

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5. **For discussion and action, the Capital Improvement Department will provide a plan to further secure the Union Plaza area from winter weather.**

Mr. Sam Rodriguez, City Engineer, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Representatives Svarzbein, Annelo, Hernandez, M and Rodriguez commented.

The following City staff members commented and answered questions posed by Council members:

- Mr. Robert Cortinas, Chief Financial Officer
- Ms. Karla Nieman, City Attorney
- Mr. Tommy Gonzalez, City Manager

1ST MOTION

Motion made by Representative Rivera, seconded by Representative Salcido, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at **2:19 p.m.** on **January 18, 2022** pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss the item:

Section 551.071 CONSULTATION WITH ATTORNEY

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

NAYS: None

2ND MOTION

Motion made by Representative Rivera, seconded by Representative Rodriguez, and unanimously carried to **ADJOURN** the Executive Session at **4:09 p.m.** on **January 18, 2022** and **RECONVENE** the meeting of the City Council during which time a motion was made.

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representatives Salcido and Rodriguez

3RD AND FINAL MOTION

Motion made by Representative Hernandez, seconded by Representative Svarzbein carried to **DIRECT** the City Manager to proceed safeguarding identified buildings identified in the Union Plaza footprint without touching or going into the buildings and come back to Council at the next City Council work session in two weeks with a cost estimate and alternatives.

AYES: Representatives Svarzbein, Hernandez, Rivera, and Lizarraga

NAYS: Representatives Annelo, Molinar, and Rodriguez

NOT PRESENT FOR THE VOTE: Representative Salcido

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EXECUTIVE SESSION

Motion made by Representative Rivera, seconded by Representative Salcido, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 2:19 p.m. on January 18, 2022 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, Annello, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga
NAYS: None

Motion made by Representative Rivera, seconded by Representative Rodriguez, and unanimously carried to **ADJOURN** the Executive Session at 4:09 p.m. on January 18, 2022 and **RECONVENE** the meeting of the City Council during which time a motion was made.

AYES: Representatives Svarzbein, Annello, Hernandez, Molinar, Rivera, and Lizarraga
NAYS: None
NOT PRESENT FOR THE VOTE: Representatives Salcido and Rodriguez

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The Work session was **RECESSED** at 5:15 p.m. on **January 18, 2022** and **RECONVENED** at 1:57 p.m. on **January 19, 2022**, Representative Salcido requested to be excused.

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Motion made by Representative Rivera, seconded by Representative Rodriguez, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at **1:58 p.m.** on **January 19, 2022** pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss **EX2** under:

Section 551.071 CONSULTATION WITH ATTORNEY

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

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera, and unanimously carried to **ADJOURN** the Executive Session at **2:40 p.m.** on **January 19, 2022** and **RECONVENE** the meeting of the City Council.

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

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EX1. Max Grossman v. City of El Paso; Texas Supreme Court, Case No. 21-1105. Matter No. 17-1001-171.001.001 (551.071)

NO ACTION was taken on this item.

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EX2. Application of El Paso Electric Company to Change Rates, Public Utility Commission of Texas Docket No. 52195. Matter No. 21-1008-174 (551.071)

NO ACTION was taken on this item.

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EX3. Application of El Paso Electric Company to Change Rates to Open Access Transmission Tariff, Federal Energy Regulatory Commission (FERC); Docket No. ER22-282-000. Matter No. 21-1008-183 (551.071)

NO ACTION was taken on this item.
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EX4. Supplemental Compliance Filing Re: Order 864 of El Paso Electric Company, Federal Energy Regulatory Commission (FERC); Docket No. ER22-392-000. Matter No. 21-1008-183.001 (551.071)

NO ACTION was taken on this item.

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EX5. City of Dallas v. Oxley Leasing North Loop, LLC, Case No. 05-21-00241-CV. Matter No. 221003-1253 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Molinar and carried that the City Attorney be **AUTHORIZED** to sign as amicus curiae, the appellate brief prepared and filed by the Texas Commercial Airports Association ("TCAA") in support of the City of Dallas, in its petition for review to the Texas Supreme Court from the Dallas Court of Appeals in the case styled City of Dallas v. Oxley Leasing North Loop, LLC, Case No. 05-21-00241-CY, in an issue of prime importance to the El Paso International Airport and to provide supportive public data in said appeal.

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

NAYS: Representative Rodriguez

NOT PRESENT FOR THE VOTE: Representative Salcido

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ADJOURN

Motion made by Representative Rivera, seconded by Representative Svarzbein, and unanimously carried to **ADJOURN** the meeting at **2:41p.m.** on **January 19, 2023.**

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

NAYS: None

ABSENT: Representative Salcido

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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk