

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
December 6, 2021
COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY
9:05 AM

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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 9:30 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Peter Svarzbein, Aleksandra Annello, Joe Molinar, Claudia Rodriguez, Henry Rivera, and Cissy Lizarraga. Late arrival: Cassandra Hernandez at 1:07 p.m. Early Departure: Henry Rivera at 2:44 p.m., Mayor Oscar Leeser at 4:00 p.m. and Cassandra Hernandez at 5:10 p.m. Isabel Salcido 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 highlighting the surge in new COVID-19 cases with a positivity increase rate of 19% and a third of total cases attributed to school age children. He explained that the number of COVID-19 related hospitalizations accounted for 15% of total hospital capacity and stressed the importance of vaccinations. Mr. Gonzalez stated that the City continued to lead the State and the Nation in vaccination rates adding that among children age 5 to 15, a total of 57% were partially vaccinated while 31% were fully vaccinated. Mr. Gonzalez continued the overview by saying the City would continue to work with community partners to distribute vaccinations and added that the City hosted pop up vaccination events at the University of Texas at El Paso's Undergraduate Learning Center to distribute vaccines to individuals age 5 and older. He concluded the overview by mentioning that Dr. Ocaranza had issued a health order, recommending students and teachers wear face masks while indoors.

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 & Statewide Mask Mandate Litigation
- d) Additional Updates

Ms. Karla Nieman, City Attorney, continued the presentation by stressing the need to renew the City's Emergency Ordinances and said that there was no update on the

litigation related to the City's Mask Mandate with the hope of receiving an update by the end of the year. As far as the various litigation cases across the State, Ms. Nieman summarized some of the findings indicating some of the Courts found that the Governor's GA-38 prohibiting the implementation of mask mandates violated the Americans with Disabilities Act and other federal laws among schools. She ended her update by providing statistical information related to COVID-19 citations filed in the Municipal Courts.

3. Team Lead Report:

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

Dr. Hector Ocaranza, Public Health Authority, continued the presentation by explaining the number of new COVID-19 cases had tripled in the last month with the reporting of 75 cases per 100,000 individuals. He said these cases were largely attributed to school age children and unvaccinated people. Dr. Ocaranza stated that vaccination boosters were available for those in the community age 18 and older and urged the community to continue practicing safety protocols and prevention by seeking vaccinations and non-pharmacological interventions such as the use of facemasks. He concluded his presentation by mentioning the collaboration with school districts in providing recommendations and highlighting the challenges faced by hospitals in recruiting medical professionals creating limited resources to address the high number of hospitalizations.

The following City staff members responded to questions posed by Members of the City Council:

- Mario D'Agostino, Fire Chief
- Ms. Laura Cruz- Acosta, Strategic Communications Director

4. City Manager Wrap-up (Tommy Gonzalez)

Mr. Tommy Gonzalez, City Manager, closed the presentation by saying the City was working with hospitals to open a second regional infusion center, available to individuals upon referral from a medical provider. He encouraged everyone traveling to follow up on travel guidelines and recommended flu shots, facemasks, and good hygiene in order to remain healthy during the winter season.

Mayor Leeser and Representatives Svarzbein, Anello, Molinar, and Rodriguez commented.

NO ACTION was taken on this item.

2.

ORDINANCE 019263

**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 November 8, 2021; and

WHEREAS, as of November 24, 2021, the number of COVID-19 active cases in El Paso is over 6,302; 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. 019253 which re-enacts Emergency Ordinance No. 019035 is set to expire on December 8, 2021; 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.

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and unanimously carried to **ADOPT** the Emergency Ordinance.

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Hernandez

ABSENT: Representative Salcido

Mayor Leeser consented to the adoption of the Emergency Ordinance.

3.

ORDINANCE 019264

AN EMERGENCY ORDINANCE

RE-ENACTING EMERGENCY ORDINANCE NO. 019036 INSTITUTING EMERGENCY MEASURES, AS RE-ENACTED, RESTATED AND AMENDED BY EMERGENCY ORDINANCE NO. 019151; AND FURTHER RE-ENACTED AND AMENDED BY EMERGENCY ORDINANCE NOS. 019156, 019169, 019191; 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 November 8, 2021; 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 re-enact Emergency Ordinance No. 019036, as re-enacted, restated and amended on March 16, 2021 through Emergency Ordinance No. 019151, as further re-enacted and amended on March 29, 2021 through Emergency Ordinance No. 019156, as further re-enacted and amended on April 26, 2021 through Emergency Ordinance No. 019169, as further re-enacted and amended on May 24, 2021 through Emergency Ordinance No. 019191, which shall remain in effect for thirty days 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. Emergency Ordinance No. 019036, as re-enacted, restated and amended by Emergency Ordinance No. 019151, and as further re-enacted and amended by

Emergency Ordinance Nos. 019156, 019169, and 019191, penalty as provided in Section 8, is hereby re-enacted.

- 2. 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, 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.

Motion made by Representative Annelo, seconded by Representative Molinar, and unanimously carried to **ADOPT** the Emergency Ordinance.

AYES: Representatives Svarzbein, Annelo, Molinar, Rodriguez, Rivera, and Lizarraga
 NAYS: None
 NOT PRESENT FOR THE VOTE: Representative Hernandez
 ABSENT: Representative Salcido
Mayor Leeser consented to the adoption of the Emergency Ordinance.

4. **ORDINANCE 019265**

**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 November 8, 2021 (Ord. No. 019255) (“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 January 5, 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 Rivera, seconded by Representative Molinar, and unanimously carried to **ADOPT** the Emergency Ordinance.

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Hernandez

ABSENT: Representative Salcido

Mayor Leeser consented to the adoption of the Emergency Ordinance.

5. Presentation and update by the El Paso Electric Company on its strategic plan and goals, including but not limited to, transportation electrification.

The following representatives from El Paso Electric presented a PowerPoint presentation

(copy on file in the City Clerk's Office):

1. Ms. Kelly Tomblin, President and Chief Executive Officer
2. Mr. Omar Gallegos, Director of Resource and Planning Management
3. Mr. R. Clay Doyle, Vice President of Transmission and Distribution
4. Ms. Jessica Christianson, Director of Sustainability

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

NO ACTION was taken on this item.

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The meeting was **RECESSED** at 12:38 p.m. and **RECONVENED** at 1:07 p.m. for a short break.
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6. Presentation and update from the El Paso Electric Company on its application with the Public Utility Commission of Texas to approve its Advanced Metering System ("AMS") deployment plan, AMS surcharge, and Non-Standard (non-AMS) metering service fees.

Ms. Jessica Christianson, El Paso Electric Director of Sustainability, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mr. Matthew Behrens, El Paso Electric Director of Energy Solutions, commented.

Ms. Karla Nieman, City Attorney, commented.

Mayor Leeser and Representatives Svarzbein, Annelo, Hernandez, and Rodriguez commented.

NO ACTION was taken on this item.

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7. RESOLUTION
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WHEREAS, as a result of winter storm Uri (February 2021) many Texas residents, companies and institutions experienced firsthand the far-reaching impacts of energy loss; and

WHEREAS, prior to the winter storm Uri (February 2021) in contemplation of potential impacts of future energy supplies, the City of El Paso on March 6, 2012, the City of El Paso adopted Plan El Paso which identifies sustainability and climate change as a priority; and

WHEREAS, RMI, a non-profit focused on renewable energy and climate action convened several cohorts with Texas governmental institutions to promote resilience and better prepare for future events that may impact the electrical grids in the State and may result in increases in energy consumption and costs for Texans; and

WHEREAS, some of these cities and counties worked together to provide comments to the Public Utilities Commission of Texas (PUCT) regarding Docket 52373, Review of the Wholesale Electric Market Design; and

WHEREAS, the comments of that group focus on i) Increase the use of energy efficiency and demand response programs to equitably manage electricity and improve grid reliability; ii) Value and encourage a diversified resource base to provide a variety of grid benefits and

services, and further strengthen grid reliability and resilience; iii) Minimize the severity and disproportionate impacts of power outages on different customer types; iv) Consider expanding Texans' access to reliable electricity by connecting with adjacent grids; and v) Ensure that there is a robust and inclusive market redesign stakeholder engagement process; and

WHEREAS, the City of El Paso residents may experience an increase on their electricity bills up to \$25 per month by 2022 as a result of increases in fuel charge fees and adjustments; Advance Metering Infrastructure deployment plan; rates; and Energy Efficiency recovery factor;

WHEREAS, the previously mentioned focus areas of the comments will help address those increases by further developing energy efficiency (EE) and demand response (DR) programs for residents, including low income households; and

WHEREAS, these programs are not only highly effective and cost-competitive grid resources, but can also tangibly benefit Texans on a day-to-day basis by lowering customer energy bills, improving quality of life, and decreasing energy burden; and

WHEREAS, EE and DR programs could offset the need for new gas combined-cycle generators, which would likely only operate during peak demand; and

WHEREAS, resilience is increased the Commission design markets that permits all generation, storage, and distributed energy resources (DERs)—like residential solar—equal access to the grid; and

WHEREAS, the advancement EE and DR programs, and renewable energy generation is key to reduce Greenhouse Gas emissions (GHG emissions) and therefore to mitigate climate change; and

WHEREAS, all these reasons support an improvement in the quality of life and place for the residents of El Paso by potentially lowering energy bills and improving air quality; and

WHEREAS, these comments support the work of the Regional Renewable Energy Advisory Council (RREAC) and its Strategic Plan.

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

That the City of El Paso by the City Manager or his designee be authorized to sign the comments to the Public Utilities Commission of Texas (PUCT) Docket 52373, substantially similar to those provided in Attachment A (copy on file in the City Clerk's Office) and produced in coordination with a cohort of Texas governmental institutions.

That the City Manager or his designee is authorized to sign any future documents in relation to PUCT Docket 52373.

The City Manager or his designee will provide periodic updates to the City Council regarding this project.

Ms. Nicole Ferrini, Community and Human Development Director and Chief Resilience Officer, introduced the item.

Mr. Fernando Berjano, Sustainability Coordinator, Community and Human Development, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

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

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

NAYS: None

ABSENT: Representative Salcido

8. Presentation and update by Pioneers 21 on the organization's FY2021 Annual Report, including a status update on activities during FY2021, use of grant funds, and progress toward performance measures identified by the Chapter 380 Economic Development Program Agreement executed on November 12, 2019 between the City of El Paso and Pioneers 21.

Ms. Denisse Carter, Economic Development Contract Compliance Coordinator, introduced the item.

The following representatives from Pioneers 21 presented a PowerPoint presentation (copy on file in the City Clerk's Office).

1. Ms. Laura Butler, Executive Director
2. Mr. Adam Marshall, Assistant Director of Programs and Operations

Mr. Cary Westin, Senior Deputy City Manager of Economic and International Development commented.

Mayor Leeser and Representative Svarzbein commented.

NO ACTION was taken on this item.

EXECUTIVE SESSION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Molinar, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 3:18 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, Annelo, Hernandez, Molinar, Rodriguez, and Lizarraga

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Rivera

ABSENT: Representative Salcido

Motion made by Representative Molinar, seconded by Representative Rodriguez, and unanimously carried to **ADJOURN** the Executive Session at 5:39 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made.

AYES: Representatives Svarzbein, Molinar, Salcido, Rodriguez, and Lizarraga

NAYS: None

NOT PRESENT FOR THE VOTE: Representatives Hernandez and Rivera

ABSENT: Representative Salcido

EX1. Application of El Paso Electric Company for Approval of Advanced Metering System (AMS); Public Utility Commission of Texas Docket No. 52040. Matter No. 21-1008-168 (551.071)

Mayor Pro Tempore Svarzbein commented.

Ms. Karla Nieman, City Attorney, commented.

NO ACTION was taken on this item.

EX2. Petition of the Public Utility Commission of Texas' Staff for a Good Cause Exception To 16 Texas Administrative Code § 25.181(D)(3)(A) and to set the Avoided Cost of Energy Under § 25.181(D)(3)(A) for 2022 Electric Utility Energy Efficiency Programs, PUCT Docket 52871. Matter No. 21-1008-184 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and carried that the City Attorney be **AUTHORIZED** to retain outside counsel and any other necessary consultants, to file an intervention in Public Utility Commission of Texas Docket No. 52871, Petition of the Public Utility Commission of Texas' Staff for a Good Cause Exception To 16 Texas Administrative Code § 25.181(D)(3)(A) and to set the Avoided Cost Of Energy Under § 25.181(D)(3)(A) for 2022 Electric Utility Energy Efficiency Programs, and grant the City Attorney authority to settle and resolve all issues.

AYES: Representatives Svarzbein, Annello, Molinar, Rodriguez, and Lizarraga

NAYS: None

NOT PRESENT FOR THE VOTE: Representatives Hernandez and Rivera

ABSENT: Representative Salcido

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.

EX4. Supplemental Compliance Filing Re: Order 864 of El Paso Electric Company, Federal Energy Regulatory Commission (FERC) Docket No. ER22-392, Matter No. 21-1008-183.001 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Molinar, and carried that the City Attorney be **AUTHORIZED** to retain outside counsel and any other

necessary consultants, in consultation with the City Manager, to file an intervention in Federal Energy Regulatory Commission (FERC) Docket No. ER22-392, El Paso Electric's Supplemental Compliance Filing Regarding Order No. 864.

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

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EX5. Discussion and action regarding the potential purchase/sale or value of real property located in West El Paso. Matter No. 20-1004-1140 (551.071) (551.072)

NO ACTION was taken on this item.

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EX6. Discussion and action regarding the potential sale/purchase, exchange, lease, or value of real property located in Northeast El Paso. Matter No. 20-1004-1157 (551.071) (551.072)

NO ACTION was taken on this item.

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ADJOURN

Motion made by Representative Annelo, seconded by Representative Molinar and unanimously carried to **ADJOURN** the meeting at 5:44 p.m.

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

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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk