

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
OCTOBER 10, 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 9:38 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Alexandra Annello, Joe Molinar, Isabel Salcido, Claudia Rodriguez, and Cissy Lizarraga. Henry Rivera joined virtually. Late arrival: Peter Svarzbein joined virtually at 10:48 a.m. Cassandra Hernandez 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)

Ms. Tracey Jerome, Senior Deputy City Manager, began the presentation by explaining that the downward trend in the number of new COVID-19 cases continued along with the decrease in the number of related hospitalizations. She stressed the importance of staying up to date with vaccinations and said that the new Bivalent booster was available free of charge to individuals 12 and older at the City's clinics without an appointment. She also explained that the initial booster was still available to individuals five and older with the initial round of vaccinations available to those 6 months of age and older. Ms. Jerome ended by mentioning that the City remained ahead of State and National statistics related to vaccination rates with 84% of the community fully vaccinated and 43% receiving a booster.

2. City Attorney Overview (Karla Nieman)

- a. State Disaster Declaration
- 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, reported that the State's Disaster Declaration was expected to be renewed next month and highlighted the need to renew the local Emergency Ordinances related to the virus. She stated that her office was still monitoring the mask mandate litigation pending in the 4th, 5th and 8th Texas Courts of Appeal as no updates had been made. She continued by mentioning that the

Centers for Disease Control and Prevention (CDC) had discontinued any travel advisories specific to countries and ended her portion of the presentation by providing an update on trial settings related to COVID-19 currently 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 urging the public to seek booster vaccinations as the Omicron strain was expected to remain the dominant strain during the winter season. He added that there would be a rise in hospitalizations related to influenza during the flu season and reminded the community to remain aware of their risk level for viruses in the coming weeks. Dr. Ocaranza said there was also a decline in the number of new Monkeypox cases reported and explained that a vaccination was only available to high-risk individuals and reported that only two cases had been reported in the City.

- 4. City Manager Wrap-up (Tommy Gonzalez)

Ms. Jerome closed out the presentation by saying that key virus indicators remained positive and encouraged the community to seek vaccinations and non-pharma logical interventions such as the use of face masks in order to prevent exposure to viruses during the upcoming travel and holiday seasons.

Mayor Leeser and Representatives Annello, Salcido, Rodriguez, and Rivera commented.

NO ACTION was taken on this item.

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2. **ITEMS 2 THROUGH 4 WERE TAKEN TOGETHER**

ORDINANCE 019387

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 September 12, 2022; and

WHEREAS, despite local COVID-19 cases continuing to decline, the risk of contracting COVID-19 remains and new variants of the virus are expected to arise; and

WHEREAS, as of September 27, 2022, the number of new COVID-19 active cases reported in El Paso is 46 and the cumulative number is 284,666; 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. 019373 which re-enacts Emergency Ordinance No. 019035 is set to expire on October 12, 2022;

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 019388

**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 and
019284; 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 September 12, 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 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, as further re-enacted and amended on January 31, 2022 through Emergency Ordinance No. 019284, 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, 019191, and 019284, 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, and 019284, 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 019389

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, with the most recent re-enactment taking place on September 12, 2022; and

WHEREAS, Governor Abbott has similarly renewed the State's COVID- 19 Disaster Declaration, with the most recent extension taking place on September 19, 2022; 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 September 12, 2022 (Ord. No.019375) ("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 November 09, 2022 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.

Mayor Leeser and Representative Annello commented.

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

- Ms. Karla Nieman, City Attorney
- Mr. Alex Hoffman, Assistant Director, Capital Improvement Department

Motion made by Representative Annello, seconded by Representative Molinar, and unanimously carried to **ADOPT** the Emergency Ordinances

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Svarzbein

ABSENT: Representative Hernandez

Mayor Leeser consented to the adoption of the Emergency Ordinances.

5. Presentation on active planning studies being led by the Capital Improvement Department.

Mr. Alex Hoffman, Assistant Director, Capital Improvement Department, presented a PowerPoint presentation (copy on file in the City Clerk's Office) and responded to questions.

Representatives Svarzbein, Annello, Molinar, Rodriguez, and Lizarraga commented.

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

- Mr. Ben Fyffe, Managing Director, Cultural Affairs and Recreation
- Ms. Tracey Jerome, Senior Deputy City Manager

NO ACTION was taken on this item.

6. Management Update: WinterFest 2022.

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

- Mr. Ben Fyffe, Managing Director, Cultural Affairs and Recreation
- Ms. Laura Cruz-Acosta, Strategic Communications Director

Mayor Leaser and Representatives Svarzbein, Annelo, Molinar, Rodriguez, and Rivera commented.

Ms. Tracey Jerome, Senior Deputy City Manager, commented.

NO ACTION was taken on this item.

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EXECUTIVE SESSION

Motion made by Representative Annelo, seconded by Representative Salcido, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 11:59 a.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

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

NAYS: None

ABSENT: Representative Hernandez

Motion made by Representative Annelo, seconded by Representative Rodriguez, and unanimously carried to **ADJOURN** the Executive Session at 2:33 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made:

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

NAYS: None

ABSENT: Representative Hernandez

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EX1. Decision by the Civil Service Commission on August 11, 2022 – Mark Avalos. Matter No. 22-1043-906 (551.071)

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Rodriguez, and carried that the El Paso City Council:

1. Finds that the action of the Civil Service Commission (hereinafter the "Commission") on August 11, 2022 regarding the appeal by Mark Avalos, "to not sustain Mrs. Palafox's recommendation so that person is reinstated" was not within the scope of the Commission's authority granted in City Charter Section 6.13-8; and
2. Advises the Commission that the City Manager and the Human Resources Director are responsible under the Charter to oversee policy and procedures relating to City employees, and the department heads, including the Fire Chief, are responsible under the Charter for all personnel decisions provided such fall within the Charter and policy and procedures; and
3. In accordance with section 5.2.2(b) of the Commission's bylaws, directs the Commission, to reconsider item number 4 from the August 11, 2022 meeting and in

doing such, to comply with the City Charter, including but not limited to Sections 5.2(1), 6.9-5 and 6.13-8, both procedurally and substantively; and

4. Directs that the Civil Service receive and heed to additional training by the City staff regarding the City's policies on prevention of violence in the workplace, prevention of hostile workplace, ethics, and the code of conduct.

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

NAYS: Representatives Annelo and Molinar

ABSENT: Representative Hernandez

EX2. Railroad Motor Vehicle Storage Facility Service Members Civil Relief Act claim. (551.071)

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Rodriguez, and unanimously carried that the City Attorney's Office be authorized to negotiate regarding the Railroad Motor Vehicle Storage Facility Service Members Civil Relief Act claim; in Matter Number 20-1026-11058, and that the City Attorney, in consultation with the City Manager, be given the authority to sign all documents or agreements necessary to effectuate this authority.

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

NAYS: None

ABSENT: Representative Hernandez

EX3. Steve Hernandez v. City of El Paso. Matter No. 17-1007-779 (551.071)

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Rivera and unanimously carried that the City Attorney's Office be authorized to participate in the mediation of Steven Hernandez v. City of El Paso; Cause No.: 2016DCV4711, Matter 17-1006-779, and to take all steps necessary; including the execution of any required documents, should a settlement be reached in the case.

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

NAYS: None

ABSENT: Representative Hernandez

EX4. Canalda, Jaime vs. The City of El Paso. Matter No. 19-1006-1166.001 (551.071)

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Salcido, and carried that the City Attorney's Office be authorized to participate in the mediation of Jaime Canalda v. City of El Paso, Cause No. 2019DCV3453, in Matter Number 19-1006-1166.001, and to take all steps necessary, including the execution of any required documents, should a settlement be reached in the case.

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

NAYS: Representative Rodriguez

ABSENT: Representative Hernandez

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EX5. Application of El Paso Electric Company to Reconcile Fuel Costs, Public Utility Commission of Texas Docket No. 54142. Matter No. 22-1008-201 (551.071)

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Rodriguez, and unanimously carried that the City Attorney is authorized to retain Norman Gordon as outside counsel and any other necessary consultants, in consultation with the City Manager, to file an intervention in the Application to Reconcile Fuel Costs filed by El Paso Electric on September 23, 2022, under Public Utilities Commission Docket No. 54142.

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

NAYS: None

ABSENT: Representative Hernandez

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EX6. Purchase, lease, exchange or value of real property located in El Paso, Texas. Matter No. 22-1004-1432 (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 2:43 p.m.

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

NAYS: None

ABSENT: Representative Hernandez

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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk