

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
February 28, 2022
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 9:24 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Peter Svarzbein, Alexsandra Annello, Isabel Salcido, Claudia Rodriguez, Henry Rivera, and Cissy Lizarraga. Late arrival of Representative Joe Molinar at 11:29 a.m. Casandra Hernandez requested to be excused.
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AGENDA

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1. Presentation and recognition of the El Paso Fire Department who on Friday, February 4, 2022, worked to extinguish the blaze that engulfed the De Soto Hotel.

Mr. Tommy Gonzalez, City Manager, recognized the firefighters with a U-Matter award for going above and beyond the call of duty in responding to the blaze without any injuries.

The following staff members from the Fire Department were present for the recognition:

1. Fire Chief Mario D'Agostino
2. Deputy Fire Chief Frank Reyna
3. Fire Captain George Garcia
4. Battalion Fire Chief Daniel Coronado
5. Assistant Fire Chief Robert Arvizu

Mayor Leeser and Representatives Svarzbein, Annello, Salcido, and Rodriguez.
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2. 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 stating that the number of new COVID-19 cases had fallen by about 97% since the peak of the most recent surge. He continued by explaining that the number of COVID-19 related hospitalizations had declined by about 66% with testing dramatically decreasing by 80%. Mr. Gonzalez also provided statistics related to current vaccination rates by stating 79% of individuals had received two vaccines and 98% had received one vaccine while adding that El Paso

continued to lead the State and the Nation in vaccination rates. Mr. Gonzalez added that despite the declining numbers, the City was still considered a high-risk area.

Mayor Leeser and Mayor Pro Tempore Svarzbein commended City staff and the community.

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. She continued by explaining there is a new lawsuit that Governor Abbott filed against the City of Denton for instituting a mask mandate in their City owned facilities and mentioned another lawsuit filed by the State of Texas against the Centers for Disease Control (CDC) also related to a federal mask mandate. Ms. Nieman stated that only a few states continued to have mask mandates and 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.)
 - b) Financial Focus (Robert Cortinas)

Dr. Hector Ocaranza, Public Health Authority, continued the presentation by explaining that there is an overall improvement in all COVID-19 metrics such a positivity rate and hospitalizations, however COVID-19 related deaths continue to be reported. He mentioned that high risk unvaccinated people will drain resources if a new outbreak happens among the community and explained that the vaccination is effective and safe. He concluded his presentation by shifting focus on protecting high-risk individuals to prevent hospitalizations and fatalities and strongly recommended vaccines, boosters and prevention habits.

Mr. Robert Cortinas, Chief Financial Manager/Deputy City Manager, gave a financial focus update by providing a breakdown of COVID-19 expenditures by category totaling over \$25 million from March 2021 to present.

Fire Chief Mario D'Agostino provided an update on COVID-19 operations related to the Omicron variant.

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 which would be 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 commented.

NO ACTION was taken on this item.

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3.

ORDINANCE NO. 019302

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 31, 2022; and

WHEREAS, as of February 17, 2022, the number of COVID-19 active cases in El Paso is over 12,572; 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. 019283 which re-enacts Emergency Ordinance No. 019035 is set to expire on March 2, 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.

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

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

Mayor Leeser consented to the adoption of the Emergency Ordinance.

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4. ORDINANCE NO. 019303

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 and amendment taking place on January 31, 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.

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

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

Mayor Leeser consented to the adoption of the Emergency Ordinance.

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5. ORDINANCE NO. 019304

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 31, 2022; and

WHEREAS, Governor Abbott has similarly renewed the State's COVID- 19 Disaster Declaration, with the most recent extension taking place on January 22, 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-enactment taking place on January 31, 2022 (Ord. No. 019285) ("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 30, 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 Salcido, and unanimously carried to **ADOPT** the Emergency Ordinance.

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Molinar

ABSENT: Representative Hernandez

Mayor Leeser consented to the adoption of the Emergency Ordinance.

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6. Budget Update - 5 Year Financial Forecast.

The following City staff members presented and responded to questions posed by Members of the City Council (presentation on file in the City Clerk’s Office):

- 1. Chief Financial Officer and Deputy City Manager Robert Cortinas
- 2. Assistant Police Chief Peter Pacillas
- 3. Ms. Isaura Valdez, Administrative Services Manager
- 4. Mr. Tommy Gonzalez, City Manager
- 5. Mr. Sam Rodriguez, Chief Operations and Transportation Officer
- 6. Ms. Dionne Mack, Deputy City Manager of Public Safety and Support Services
- 7. Ms. Nicole Cote, Director of Office of Management and Budget

Representatives Svarzbein, Annello, Salcido and Rodriguez commented.

NO ACTION was taken on this item.

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7. Presentation and update by Texas Gas Service on current customer and operations investments in its gas distribution system, and any related regulatory applications to be filed with or currently before the Railroad Commission of Texas.

Ms. Karina Brasgalla, Assistant Director for Partnerships for Economic Development introduced the item.

The following representatives from Texas Gas Service, presented the update and responded to questions from City Council members (presentation on file in the City Clerk’s Office).

- 1. Ms. Elizabeth Ohara, Regional Manager/State Leader of Community Relations
- 2. Ms. Stacy McTaggart, Rates and Regulatory Director

Representatives Lizarraga and Rivera commented.

NO ACTION was taken on this item.

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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 12:22 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, Annello, Molinar, Salcido, Rodriguez, Rivera and Lizarraga
NAYS: None
ABSENT: Representative Hernandez

Motion made by Representative Molinar, seconded by Representative Rodriguez, and unanimously carried to **ADJOURN** the Executive Session at 2:13 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made.

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

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EX1. Claim of Noel Life. Matter No. 21-1018-400 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and unanimously carried that the City Attorney's Office be authorized to **DENY** the claim of Noel Life in Matter Number 21-1018-400, in its entirety

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

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EX2. National Opioid Lawsuit. Matter No. 19-1043-554 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera, and unanimously carried that the City Attorney's Office, in consultation with the City Manager, is authorized to **ACCEPT** the settlements with Endo and Teva in the National Opioid Litigation. Further, the City Attorney's office, in consultation with the City Manager, is authorized to accept any future settlements that may be reached with manufacturers, distributors, or any other such entities in the National Opioid Litigation. In addition, the City Manager is authorized to sign all necessary documents to effectuate this authority including but not limited to Settlement Participation Forms.

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

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EX3. Michael Aguirre, et al v. City of El Paso, Texas. Matter No. 17-1043-429 (551.071)

NO ACTION was taken on this item.

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EX4. Celia Sanchez, et al v. City of El Paso, Texas. Matter No. 17-1026-8443 (551.071)

Motion made by Representative Rivera, seconded by Representative Rodriguez, and unanimously carried to **POSTPONE** the item until March 1, 2022.

AYES: Representatives Svarzbein, Annello, Molinar, Salcido, Rodriguez, Rivera and Lizarraga
NAYS: None
ABSENT: Representative Hernandez
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EX5. Max Grossman v. City of El Paso; Texas Supreme Court, Case No. 21-1105. Matter No. 17-1001-171.001 (551.071)

NO ACTION was taken on this item.
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EX6. 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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EX7. Petition of El Paso Electric Company for Authority to Revise its Fixed Fuel Factor, Public Utility Commission of Texas Docket No. 53229. Matter No. 22-1008-185 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and unanimously carried that the City Attorney, in consultation with the City Manager, **FILE** an intervention in Public Utility Commission Docket No. 53229 Petition of El Paso Electric Company to revise its Fixed Fuel Factor.

AYES: Representatives Svarzbein, Annello, Molinar, Salcido, Rodriguez, Rivera and Lizarraga
NAYS: None
ABSENT: Representative Hernandez
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The meeting was **RECESSED** at 2:17 p.m. until March 1, 2022.

The meeting was **RECONVENED** at 12:29 p.m. on March 1, 2022.

All members were present with the exception of Representative Hernandez who 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 12:29 p.m. on March 1, 2022 pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss:

EX4. Celia Sanchez, et al v. City of El Paso, Texas. Matter No. 17-1026-8443 (551.071)

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

Motion made by Representative Rodriguez, seconded by Representative Molinar, and unanimously carried to **ADJOURN** the Executive Session at 1:53 p.m. and **RECONVENE** the meeting of the Work Session.

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

NO ACTION was taken on the item.

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Motion made by Representative Molinar, seconded by Representative Rodriguez, and unanimously carried to **ADJOURN** the Work Session at 1:53 p.m. on **March 1, 2022**.

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

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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk