

OSCAR LEESER
MAYOR

CARY WESTIN
INTERIM CITY MANAGER



CITY COUNCIL
BRIAN KENNEDY, DISTRICT 1
JOSH ACEVEDO, 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
May 20, 2024
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 9:15 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Brian Kennedy, Josh Acevedo, Joe Molinar, Art Fierro, Henry Rivera, and Chris Canales. Late arrival: Isabel Salcido at 10:25 a.m. Cassandra Hernandez requested to be excused.
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AGENDA
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ORDINANCE 019634
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**1. AN EMERGENCY ORDINANCE EXTENDING EMERGENCY
ORDINANCE NO. 019333 AUTHORIZING THE CITY MANAGER TO ASSIGN
PERSONNEL AND RESOURCES TO ASSIST IN ADDRESSING THE HUMANITARIAN
AND PUBLIC SAFETY CRISIS RESULTING FROM A MASS MIGRATION
THROUGH EL PASO**

WHEREAS, on May 23, 2022, the Mayor and City Council of the City of El Paso (the "City") passed an Emergency Ordinance No. 019333 "Authorizing the City Manager to Assign Personnel and Resources to Assist in Addressing the Humanitarian and Public Safety Crisis Resulting from a Mass Migration through the City of El Paso"; and

WHEREAS, the City finds that the expenditure of public funds for staff to coordinate resources and supplies, serve as shelter surge staff and transport migrants released in the City of El Paso accomplishes a valid public purpose of protecting public infrastructure, and protecting the health, safety and welfare of the citizens of El Paso; and

WHEREAS, in response to potential street releases and partly pursuant to Emergency Ordinance No. 019333, the El Paso City-County Office of Emergency Management ("OEM") reallocated COVID-19 Operations staff to assist as migrant shelter surge staff and created a job specification, for general disaster operations to include humanitarian relief duties to hire and assign staff to assist with NGO capacity; and

WHEREAS, in the Fall of 2022, at least partly pursuant to the authority contained in Emergency Ordinance No. 019333, the City expended significant resources to create and staff a Welcome Center to assist with transportation assistance, providing long-distance charter services and over 39,000 meals to over 19,300 migrants through October 20, 2022; and

WHEREAS, the Director of Aviation has the authority, as granted by the El Paso City Council, to manage the day-to-day operations of the El Paso International Airport ("EPIA") and to ensure that those operations are conducted in compliance with the rules and regulations regarding airports under Title 14 of the Code of Federal Regulations, Chapter 22 of the Texas

Transportation Code, and Title 14 of the El Paso City Code, as well as federal, state, and local health and safety regulations to ensure the health, safety, and welfare of all occupants and travelers making use of EPIA facilities; and

WHEREAS, from time to time during the migration waves, EPIA in recent past, has become saturated with migrants awaiting air travel and has needed to take measures to preserve the health and safety of its customers, employees and the public, as well as measures to secure its facilities as the demand for air travel increases exponentially; and

WHEREAS, the City of El Paso is home to four international ports of entry between Texas and Mexico; and

WHEREAS, at times during the pendency of Emergency Ordinance No. 019333, border officials have barricaded and closed down the Paso del Norte bridge due to a breach of public safety involving hundreds of migrants present on the bridge attributed to rumors about the relaxation of immigration restrictions circulated on social media sites, which has caused significant delays at the international ports-of-entry involving trade; and

WHEREAS, the encampment of large groups of migrants on City rights of way, parks and other City property at one point led to street closures and cessation of the streetcar service and reassignment of City staff required to ensure safety and sanitary conditions in that area; and

WHEREAS, in order to protect the health of persons in the municipality, the City Council wishes to continue to assist the local non-governmental organizations ("NGOs") with surge staff, coordination of resources and supplies, and transportation in light of the continued high number of community releases; and

WHEREAS, the Biden administration ended the COVID-19 public health emergency on May 11, 2023 ending all use of Title 42 as a mechanism to control the border; and

WHEREAS, at that time and subsequent to that time, tens of thousands of migrants from Latin America and around the world gathered at or near the U.S.- Mexico border in hopes that President Biden would ease immigration restrictions that will make it easier to enter the United States; and

WHEREAS, the El Paso sector of U.S. Customs and Border Patrol ("CBP") had 482,095 land border encounters and over 174,000 community releases in the federal fiscal year 2023; and

WHEREAS, for federal fiscal year 2024, the Southwest had 1,340,801 migrant encounters and

WHEREAS, when the CBP Central Processing Center is over capacity and the NGO space is unavailable, that is when the potential for street releases arises; and

WHEREAS, the release of mass groups of people without access to potable water, food, or shelter exposes the migrants and El Paso residents to the origination and spread of potential and actual disease; and

WHEREAS, there are significant public safety and security concerns related to the waves of migration, including but not limited to the risk of injury or loss of life with migrants in

El Paso streets with little or no resources on days that reach hot or cold temperatures and the inherent risks that come with increased demand on local shelters; and

WHEREAS, for these reasons, the City is faced with the imminent threat of widespread injury or loss of life resulting from a surge in transient migrants traveling to the region; and

WHEREAS, there is the potential for loss of property for both residents and migrants due to those who would take financial advantage of these waves of migrants; and

WHEREAS, the El Paso City Charter Section 3.10, allows for the adoption of one or more emergency ordinances to meet a public emergency affecting life, health, property, or the public peace; and

WHEREAS, Section 121.003 of the Texas Health & Safety Code states that a municipality may enforce any law that is reasonably necessary to protect public health; and

WHEREAS, Section 122.006 of the Texas Health & Safety Code provides home-rule municipalities express authority to adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease; and

WHEREAS, this Ordinance shall remain in effect until otherwise terminated, re-enacted, superseded by a conflicting ordinance, El Paso Local Health Authority Ordinance, state or federal law, or repealed automatically as of the 31st day following the date on which it was adopted unless re-enacted pursuant to City Charter Section 3.10; and

WHEREAS, this document reflects the authority of the City of El Paso's Office of Emergency Management in the handling of the local mass migration and is separate and apart from any authority possessed by any other jurisdiction on migrant issues.

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

1. That the Emergency Ordinance No. 019333 passed and adopted by the City Council of the City of El Paso on May 23, 2022 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 Molinar, and unanimously carried that the Ordinance be **ADOPTED**.

AYES: Representatives Kennedy, Acevedo, Molinar, Fierro, Rivera, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Salcido

ABSENT: Representative Hernandez

Mayor Leeser consented to the adoption of the Emergency Ordinance.

**AN EMERGENCY ORDINANCE EXTENDING EMERGENCY
ORDINANCE NO. 019604 DUE TO A HUMANITARIAN, SECURITY, AND
ECONOMIC CRISIS RESULTING FROM MASS MIGRATION WAVES THROUGH EL
PASO**

WHEREAS, on February 26, 2024, City Council did not unanimously vote to pass the Motion to extend Emergency Ordinance No. 019485 renewing the May 1, 2023 migrant crisis Disaster Declaration, which resulted in the automatic repeal of Emergency Ordinance No. 019485 and its related Disaster Declaration ending in accordance with City Charter Section 3.10; and

WHEREAS, in order to address the fact that the conditions prompting issuance of the May 1, 2023 migrant crisis Disaster Declaration persisted, on February 29, 2024, March 7, 2024, March 14, 2024, and March 22, 2024, the Mayor declared a disaster under the authority of §418.108(a) of the Texas Government Code due to the conditions described below; and

WHEREAS, said conditions continue to persist; and

WHEREAS, for federal fiscal year 2024, Southwest migrant encounters are at 1,340,801; and

WHEREAS, the El Paso sector of Customs and Border Patrol ("CBP") had 482,095 land border encounters and over 174,000 community releases in federal fiscal year 2023; and

WHEREAS, since 2018 periodic waves of mass migration have arrived to the City acutely overstressing and exceeding the limits of our shelter and transportation networks for weeks or months; and

WHEREAS, upon the migrants' arrival into the United States, they are held by CBP which processes, sets for hearing and then releases migrants to non-governmental organizations ("NGOs"), the City and County with little to no resources; and

WHEREAS, state and federal infrastructure and support is critical to support efforts led by the City of El Paso Office of Emergency Management ("OEM") to effectively and safely care for mass groups of migrants entering the City; and

WHEREAS, in September 2023, the City purchased the former Morehead Middle School campus to serve as its Community Readiness Center ("CRC") to shelter migrants on a short-term basis; and

WHEREAS, OEM has opened the CRC when the migrant numbers exceeded the local NGO shelter capacity with over 8,700 migrants sheltered in city facilities in 2023; and

WHEREAS, the number of migrants released into the community has been as high as 1,700 in a single day; and

WHEREAS, there are significant public safety and security concerns related to the waves of migration, including but not limited to the risk of injury or loss of life with migrants in El Paso streets with little or no resources on days that reach extremely high or freezing low temperatures and the inherent risks that come with increased demand on local shelters; and

WHEREAS, the City is faced with the imminent threat of widespread injury or loss of life resulting from a surge in transient migrants traveling to the region; and

WHEREAS, there is potential for loss of property for both residents and migrants due to criminal elements that would take advantage of vulnerable migrants; and

WHEREAS, the El Paso International Airport has at times, during the waves of mass migration, become saturated with migrants awaiting air travel and shelter, and the City of El Paso has at times taken measures to preserve the health and safety of its customers, employees and the public, as well as measures to secure, clean and comply with all related legal requirements regarding its facilities as the demand for air travel can increase exponentially; and

WHEREAS, the City of El Paso is home to four of the international ports-of-entry on the U.S.-Mexico border; and

WHEREAS, based on mass migration events in the past including protests and closures of the international bridges, the City has experienced several significant delays at the international ports-of-entry to include trade delays on multiple occasions; and

WHEREAS, the City of El Paso has determined that extraordinary measures must be taken to protect all people in and coming through the City; and

WHEREAS, this document continues the activation of the City's Emergency Management Plans, and therefore reflects the authority of the City of El Paso's OEM in the handling of the local mass migration response and is separate and apart from any authority possessed by any other jurisdiction, including other local, state, or federal agencies.

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

1. That an emergency exists as described in clear and specific terms in the recitals above, which are incorporated herein.
2. That the state of disaster proclaimed for the City of El Paso by the Mayor on March 22, 2024 shall continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by order of 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 and pursuant to City Charter Section 3.10 and is effective upon adoption.

Motion made by Alternate Mayor Pro Tempore Molinar, seconded by Representative Rivera, and unanimously carried that the Ordinance be **ADOPTED**.

AYES: Representatives Kennedy, Acevedo, Molinar, Fierro, Rivera, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Salcido

ABSENT: Representative Hernandez

Mayor Leeser consented to the adoption of the Emergency Ordinance.

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3. Annual report to the City Council on operations of the Stormwater Utility.

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

- Mr. Gilbert Trejo, Vice President of Engineering, Operations and Technical Services
- Ms. Gisela Dagnino, Stormwater Chief Operations Officer

Representatives Acevedo, Molinar, and Rivera commented.

NO ACTION was taken on this item.

4. Presentation and discussion providing a report from the following Goal Teams:

1. Vision Block: Vibrant and Regional Economy

Goal 1 (Economic Development) and
Goal 3 (Visual Image)

Mr. Roberto Tinajero, International Bridges Director, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Representatives Acevedo and Molinar commented.

The following City staff members commented:

- Mr. Philip Etiwe, Planning and Inspections Director
- Mr. Robert Cortinas, Chief Executive Officer
- Mr. Cary Westin, Interim City Manager

NO ACTION was taken on this item.

5. Presentation and discussion providing a report from the following Goal Team:

1. Vision Block: Exceptional Recreational, Cultural and Educational Opportunities

Goal 4 (Quality of Life)

Mr. Pablo Caballero, Parks and Recreation Director, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

NO ACTION was taken on this item.

6. Presentation, discussion, and action on the Fiscal Year 2023-2024 Second Quarter Financial Report.

Mr. Robert Cortinas, Chief Financial Officer, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

NO ACTION was taken on this item.

EXECUTIVE SESSION

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 11:12 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 items **EX1** through **EX5**.

Section 551.071 CONSULTATION WITH ATTORNEY

Section 551.072 DELIBERATION REGARDING REAL PROPERTY

Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representative Hernandez

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** the Executive Session at 12:57 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representative Hernandez

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EX1. United States of America v. City of El Paso; United Road Towing, Inc. d/b/a UR Vehicle Management Solutions; and Rod Robertson Enterprises, Inc.; Cause No.3:23-cv-00044; Matter 20-10260-10714

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Fierro, and unanimously carried that the City Attorney's Office be **AUTHORIZED** to engage in settlement negotiations and/or settle the matter of United States of America v. City of El Paso; United Road Towing, Inc. d/b/a UR Vehicle Management Solutions; and Rod Robertson Enterprises, Inc.; and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representative Hernandez

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EX2. Close out of contract with El Paso Zoological Society, HQ#2062 (551.071)

Mayor Leeser and Representatives Kennedy, Molinar, and Fierro commented.

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Rivera, and carried that the City Council **DIRECTS** the City Manager and City Attorney to take all steps and actions necessary, including the execution of any required documents, to follow the course of action recommendations and pursue other fundraising opportunities.

AYES: Representatives Kennedy, Molinar, Salcido Fierro, Rivera, and Canales

NAYS: Representative Acevedo

ABSENT: Representative Hernandez

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EX3. Application of El Paso Electric Company to Amend its Energy Efficiency Cost Recovery Factor; HQ#UTILITY-39 (551.071)

Representative Acevedo verbally disclosed a \$750 contribution received from El Paso Electric Political Action Committee.

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Molinar, and unanimously carried that the City Attorney in consultation with the City Manager be **AUTHORIZED** to retain outside counsel and any other necessary consultants, and to file an intervention in the *Application of El Paso Electric Company for Approval to Revise its Energy Efficiency Cost Recovery Factor* filed on May 1, 2024, under the Texas Public Utility Commission, Docket No. 56572, in Matter Number UTILITY-39, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representative Hernandez

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- EX4.** Purchase, exchange, lease, or value of real property located in Downtown El Paso. (HQ#24-2784) (551.072)

NO ACTION was taken on this item.

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- EX5.** Discussion on economic development opportunities in Northeast El Paso, Texas. HQ#24-2438 (551.072) (551.087)

NO ACTION was taken on this item.

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- EX6.** Interpretation of Texas Elections Code and Texas Constitution (551.071)

1ST MOTION

Motion made by Representative Rivera, seconded by Representative Canales, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 9:48 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 following:

Section 551.071 CONSULTATION WITH ATTORNEY

AYES: Representatives Kennedy, Acevedo, Molinar, Fierro, Rivera, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Salcido

ABSENT: Representative Hernandez

2ND MOTION

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** the Executive Session at 10:18 a.m. and **RECONVENE** the meeting of the City Council at which time a motion was made.

AYES: Representatives Kennedy, Acevedo, Molinar, Fierro, Rivera, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Salcido

ABSENT: Representative Hernandez

3RD AND FINAL MOTION

Motion made by Representative Canales, seconded by Representative Fierro, and unanimously carried to **WAIVE** the attorney/client privilege to discuss the matter in open session.

AYES: Representatives Kennedy, Acevedo, Molinar, Fierro, Rivera, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Salcido

ABSENT: Representative Hernandez

Mr. Frank Garza, outside counsel, provided legal advice on the matter.

Mayor Leeser and Representatives Kennedy, Molinar, and Fierro, commented.

The following City staff members commented:

- Ms. Karla Nieman, City Attorney
- Mr. Cary Westin, Interim City Manager

NO FURTHER ACTION was taken on this item.

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Motion made by Representative Rivera, seconded by Representative Fierro, and unanimously carried to **ADJOURN** the meeting at 1:10 p.m.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representative Hernandez

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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk