

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
May 23, 2022
COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY
9:05 AM

.....
The City Council of the City of El Paso met at the above place and date. Meeting was called to order at 9:19 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Peter Svarzbein, Aleksandra Anello, Cassandra Hernandez, Joe Molinar, Isabel Salcido, Claudia Rodriguez, Henry Rivera, and Cissy Lizarraga.
.....

AGENDA

.....
1. Discussion and action on an Emergency Ordinance of the City of El Paso, Texas extending a Disaster Declaration due to a humanitarian, security, and economic crisis resulting from a mass migration through El Paso.

Chief Mario D'Agostino, Deputy City Manager of Public Safety, introduced the item.

Assistant Fire Chief Jorge Rodriguez, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

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

Ms. Karla Nieman, City Attorney, provided legal advice.

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Salcido, and carried to **DIRECT** staff to call an Urgent Public Necessity (UPN) meeting to enact a local Emergency Ordinance at 2:00 p.m. today, May 23, 2022.

AYES: Representatives Svarzbein, Anello, Hernandez, Molinar, Salcido, Rivera, and Lizarraga

NAYS: Representative Rodriguez

.....
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)

Ms. Tracey Jerome, Senior Deputy City Manager, began the presentation by explaining that although the number of new cases remained low, the current cases were four times greater than the number of cases reported at the beginning of the month. She said the positivity rate was at 26.9%, also four times higher than the percentage at the beginning of the month adding that hospitalizations had risen by 76%. Ms. Jerome encouraged the community to seek testing if experiencing

symptoms and said the Centers for Disease Control and Prevention (CDC) reported that vaccinations and boosters had shown positive results against serious illness and death following the Omicron variant surge. She ended the overview by providing vaccination rates and highlighting the importance of getting vaccinated against COVID-19.

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 and Statewide Mask Mandate Litigation
 - d) Additional Updates

Ms. Karla Nieman, City Attorney, continued the presentation by saying the Governor had extended the State's Disaster Declaration on May 22, 2022 and expressed the need to extend local emergency ordinances. She reported that she did not have an update related to the City of El Paso's Statewide Mask Mandate Litigation and explained that the Louisiana Court granted an extension of the Temporary Restraining Order to keep Title 42 in place. She ended her overview by providing statistical information related to COVID-19 cases filed in the Municipal Courts.

3. Team Lead Report:
 - a) Health Focus (Hector Ocaranza, M.D.)

Dr. Hector Ocaranza, Public Health Authority, reported that the community level remained low while stating that vaccination was still the best protection against COVID-19. He said the number of pediatric cases were expected to decline with the upcoming school break. Dr. Ocaranza explained that boosters had been approved for children as young as 5 years of age and provided the hours of operation for the City's vaccination sites. He ended his report by illustrating charts indicating trends in hospitalizations and vaccinations for the last twelve months.

4. City Manager Wrap-up (Tommy Gonzalez)

Ms. Tracey Jerome, Senior Deputy City Manager, wrapped up the presentation by once again reminding the public to seek testing if not feeling well and to obtain vaccinations against the virus.

Representative Molinar commented.

NO ACTION was taken on this item.

3. **ORDINANCE NO. 019330**

**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 April 25, 2022; and

WHEREAS, as of May 12, 2022, the number of COVID-19 active cases in El Paso is over 583; 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. 019322 which re-enacts Emergency Ordinance No. 019035 is set to expire on May 26, 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 Molinar and unanimously carried to **ADOPT** the Emergency Ordinance.

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

NAYS: None

Mayor Leeser consented to the adoption of the Emergency Ordinance.

**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 April 25, 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 Molinar and unanimously carried to **ADOPT** the Emergency Ordinance.

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

NAYS: None

Mayor Leeser consented to the adoption of the Emergency Ordinance.

5. **ORDINANCE NO. 019332**

**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 April 25, 2022; and

WHEREAS, Governor Abbott has similarly renewed the State's COVID- 19 Disaster Declaration, with the most recent extension taking place on April 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-enaction taking place on April 25, 2022 (Ord. No. 019313) (“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 June 22, 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, Hernandez, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

Mayor Leeser consented to the adoption of the Emergency Ordinance.

6. Discussion and action to override the Mayor’s Veto of the May 16, 2022 motion of City Council authorizing the First Amendment to the Amended and Restated Employment Agreement between the City of El Paso and Tomas Gonzalez, which lists the amended terms.

Mayor Leeser and Representatives Svarzbein, Hernandez, and Salcido commented.

1ST MOTION

Motion made by Representative Hernandez, seconded by Representative Lizarraga, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 11:02 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 551.074 PERSONNEL MATTERS

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

NAYS: Representative Annello, Molinar, and Rodriguez

2ND MOTION

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** the Executive Session at 1:46 p.m. and **RECONVENE** the meeting of the City Council.

3RD AND FINAL MOTION

Motion made by Representative Hernandez, seconded by Representative Rodriguez and carried to **DELETE** the item.

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

NAYS: Representative Svarzbein

7. Ad Hoc Charter Advisory Committee Update.

Ms. Yolanda Giner, Committee Chair, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Ms. Laura Cruz-Acosta, Strategic Communications Director, commented.

Mayor Leeser and Representative Annello commented.

Ms. Dora Oaxaca, citizen, commented.

NO ACTION was taken on this item.

The meeting was **RECESSED** at **2:01 P.M.** and **RECONVENED** at **2:37 P.M.** in order to convene the UPN meeting.

8. Discussion and action to review and amend the employment agreement for the City Attorney in alignment with the City's Strategic Plan goal of setting the standard for sound governance and fiscal management.

1ST MOTION

Motion made by Representative Annello, seconded by Representative Rivera, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 3:16 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 551.074 PERSONNEL MATTERS

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

NAYS: None

2ND MOTION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga, and unanimously carried to **ADJOURN** the Executive Session at 4:49 p.m. and **RECONVENE** the meeting of the City Council.

NO FURTHER ACTION was taken on this item.

9. Discussion and action to review and amend the employment agreement for City Manager in alignment with the City's Strategic Plan Goal of Setting the Standard for Sound Governance and Fiscal Management.

1ST MOTION

Motion made by Representative Hernandez, seconded by Representative Lizarraga, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 11:02 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 551.074 PERSONNEL MATTERS

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

NAYS: Representative Annello, Molinar, and Rodriguez

2ND MOTION

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** the Executive Session at 1:46 p.m. and **RECONVENE** the meeting of the City Council.

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

Ms. Karla Nieman, City Attorney, provided legal advice.

Ms. Dora Oaxaca, citizen, commented.

3RD AND FINAL MOTION

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Hernandez, and carried that the Mayor is authorized to execute the First Amendment to the Amended and Restated Employment Agreement between the City of El Paso and Tomas Gonzalez, dated effective December 11, 2018, to include the following terms:

1. That the Amended and Restated Employment Agreement be extended until June 22, 2029; and
2. That the City will pay or reimburse any reasonable and necessary legal costs and expenses incurred by the City Manager in discussions related to a First Amendment to the Amended and Restated Employment Agreement.

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

NAYS: Representatives Annello and Molinar

EXECUTIVE SESSION

Motion made by Representative Annello, seconded by Representative Rivera, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 3:16 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 551.074 PERSONNEL MATTERS

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

NAYS: None

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga, and unanimously carried to **ADJOURN** the Executive Session at 4:49 p.m. and **RECONVENE** the meeting of the City Council.

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

NAYS: None

.....
EX1. City Attorney and City Manager annual performance evaluations.
Matter No. 21-1043-688 (551.071) (551.074)

NO ACTION was taken on this item.

.....
ADJOURN

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga and unanimously carried to **ADJOURN** the meeting at 4:50 p.m.

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

NAYS: None

.....
APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk