

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
September 13, 2021
COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY
9:05 AM

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The City Council of the City Council met at the above place and date. Meeting was called to order at 9:31 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Alexsandra Annello, Cassandra Hernandez, Joe Molinar, Isabel Salcido, Claudia Rodriguez, Henry Rivera and Cissy Lizarraga. Representative Peter Svarzbein attended via videoconference.
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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, introduced the item by stating that the number of new COVID-19 cases were decreasing and said the number of associated hospitalizations was being monitored. He provided statistical information related to vaccination rates and reminded everyone that the indoor mask mandate was still in effect. Mr. Gonzalez also highlighted that per CDC guidelines a vaccine booster could be administered to immunocompromised individuals as soon as 28 days from receiving a second dose and said only a few COVID-19 hospitalizations were from break through infections.

2. City Attorney Overview (Karla Nieman)

- a) State Disaster Declarations
- b) Emergency Ordinances
- c) Status of Various Mask Mandates and Pending Litigation against Governor Abbott's COVID-19 Executive Orders
- d) Additional Updates

Ms. Karla Nieman, City Attorney, provided an update on current orders by stating that the State was expected to extend the disaster declaration by September 28th and said the CDC eviction moratorium was expired however, she noted that there were still funds available for individuals needing assistance. Ms. Nieman also explained the need to extend the disaster declaration and emergency ordinances and said the travel restriction at the land ports of entry was in effect until September 21st.

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

Dr. Hector Ocaranza, Public Health Authority, provided a briefing on the current status of COVID-19 cases and said the declining numbers in new cases could be attributed to the mask mandate and vaccination rates. He indicated that the number of COVID-19 related hospitalizations had decreased by 25% from the previous two week period.

4. City Manager Wrap-up (Tommy Gonzalez)

Mr. Tommy Gonzalez, City Manager, closed the presentation by reiterating the current vaccination rates which stand at 74% for individuals fully vaccinated and 87% for those who received a first dose. He explained that research data indicates that the virus would most likely be around for another 9 to 12 months due to the different COVID-19 variants.

Mayor Leeser and Representatives Svarzbein, Hernandez, Molinar, and Lizarraga commented.

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

1. Mr. Alex Hoffman, Assistant Director of Capital Improvement
2. Mr. Sam Rodriguez, Chief Operations and Transportation Officer
3. Ms. Angela Mora, Public Health Director
4. Ms. Laura Cruz-Acosta, Strategic Communications Director

NO ACTION was taken on this item.

2.

ORDINANCE 019228

**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 August 16, 2021; and

WHEREAS, on August 29, 2021, Governor Abbott similarly renewed the State's COVID-19 Disaster Declaration; and

WHEREAS, as of September 2, 2021, the number of COVID-19 active cases in El Paso is over 1,821; 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. 019215 which re-enacts Emergency Ordinance No. 019035 is set to expire on September 15, 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 Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Rivera, 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.

3.

ORDINANCE 019229

**AN EMERGENCY ORDINANCE
RE-ENACTING 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**

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 August 16, 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 Annello, seconded by Representative Hernandez, 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.

4. Discussion, update, and action on the 87th Texas Legislative Special Sessions for the 87th Legislature.

Ms. Lupe Cuellar and Mr. Snapper Carr, Legislative Attorneys, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

NO ACTION was taken on this item.

5. Update on the Streets and Maintenance Storm Response and Median Cleaning Plan.

Mr. Richard Bristol, Streets and Maintenance Director, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Leeser and Representatives Svarzbein, Annello, Hernandez, and Molinar commented.

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

1. Mr. Tommy Gonzalez, City Manager
2. Mr. Joel McKnight, Streets and Maintenance Deputy Director
3. Ms. Karla Nieman, City Attorney
4. Mr. Sam Rodriguez, Chief Operations and Transportation Officer

NO ACTION was taken on this item.

The meeting was RECESSED at 11:33 a.m. and RECONVENED AT 12:05 P.M.

6. 1) Presentation of the design of the Mexican American Cultural Center and Main Library Renovation signature Quality of Life Bond Project. Construction to be completed in summer of 2023.

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

- Mr. Sam Rodriguez, City Engineer

- Ms. Daniela Quesada, Chief Architect, Capital Improvement Department
- Mr. Ben Fyffe, Museums and Cultural Affairs Managing Director

2)

RESOLUTION

WHEREAS, the El Paso City Council previously approved the 2009 Capital Plan, 2010 Capital Plan, 2011 Capital Plan, FY12 – FY13 Capital Plan, the 2013 Street Infrastructure plan, the 2017 Capital Plan, the 2018 Capital Plan, the 2019 Capital Plan, and the 2020 Capital Plan and the 2012 Quality of Life projects (all collectively referred to as the “**Capital Plans**”) which generated investment interest and had balances left over from completed projects within each capital plan (“**Existing Projects**”); and

WHEREAS, the City is developing the Mexican American Cultural Center, Cleveland Square & Main Library Renovation Project (the “**Project**”); and

WHEREAS, the Existing Projects have or will be completed under their current budgets; and

WHEREAS, the City desires to reprogram project funding and interest from the Existing Projects in the aggregated amount of \$7,319,788.83 to the Project.

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

THAT the City approves the reprogramming of funds from investment interest in previous Capital Plans, and project savings of completed projects to the Project as shown in **Attachment “A”**. Further that the Capital Plans are amended as provided herein, and that the City Manager, or designee, is authorized to execute all documents and perform all actions necessary to effectuate the reprogramming of funds as provided herein.

“ATTACHMENT A”

Project Funds Reprogramming

ADD		TO	
Project Name		Fund	Amount
Mexican American Cultural Center’s Cleveland Square & Main Library Renovations		Fund 4530	\$225,474.79
		Fund 4510	\$77,708.13
		Fund 4743	\$582,285.42
		Fund 4745	\$113,618.03
		Fund 4746	\$3,074,803.46
		Fund 4800	\$121,079.32
		Total:	\$4,194,969.15
Mexican American Cultural Center’s Cleveland Square & Main Library Renovations		Proposition 1	\$144,370.65
		Proposition 2	\$95,120.57
		Fund 4560	\$144.05
		Fund 4710	\$3,701.99
		Fund 4741	\$68,183.28
		Fund 4743	\$515,932.84
		Fund 4745	\$228,700.67
		Fund 4746	\$83,343.51
		Fund 4530	\$1,168,844.01
		Fund 4510	\$158,888.11
	Fund 4740	\$657,590.00	
	Total:	\$3,124,819.68	
Aggregated Total:	\$7,319,788.83	Aggregated Total:	\$7,319,788.83

3)

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the City Manager is authorized to sign the Guaranteed Maximum Price Amendment to the Standard Form of Agreement by and between the City of El Paso and SUNDT CONSTRUCTION, Inc. (“Construction Manager”) for the project known as “Mexican American Cultural Center & Library Renovation – 2020-535R”, to accept and incorporate the Construction Manager’s Guaranteed Maximum Price Proposal and establishing the Guaranteed Maximum Price (“GMP”) for the project in the amount of \$22,551,344; and

That the City Manager or Designee be authorized to approve contract changes or amendments which are necessary for proper execution of the work and carrying out the

intent of the project, which are in accordance with applicable laws and are within the appropriate budget; and

That the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this agreement.

4)

RESOLUTION

WHEREAS, Ordinance 16090 grants the El Paso Electric Company (“**El Paso Electric**”) a franchise to construct, reconstruct, repair, maintain, use and operate in, over, or under the present and future streets, alleys, public ways parks, and public places of the City of El Paso, facilities for the transmission and distribution of electrical energy and broadband over power line communications; and

WHEREAS, Ordinance 16090 also provides that the City shall have the power at any time to require El Paso Electric to change the route or position of its poles, lines, conduits, or other construction at El Paso Electric’s expense when the El Paso City Council shall find, by resolution, that such change is necessary in the closing, opening or relocation of streets or alleys, or water or sewer lines, the changing of grade of streets or alleys, the construction and maintenance of parks and public improvements, the construction of private buildings, the construction or use of driveways, and under other conditions which the City Council shall find necessary under the lawful exercise of its police power; and

WHEREAS, the City of El Paso is currently making improvements to the El Paso Public Library Main Branch, located at 501 N. Oregon St., El Paso, TX 79901 (“**Property**”), such improvements including the construction of a Mexican American Cultural Center; and

WHEREAS, El Paso Electric currently has infrastructure and facilities located on the Property and on public spaces and right of ways belonging to the City of El Paso adjacent to the Property, and

WHEREAS, On August 13, 2013, the City of El Paso granted El Paso Electric an Underground and Switchgear Box Pad Easement recorded in the Official Public Records of Real Property in El Paso County under Document No. 20130067773 (“**Easement**”), such document granting an easement to El Paso Electric for the installation of some underground facilities on the Property; and

WHEREAS, the Easement provides that the City shall have the power at any time to require El Paso Electric Company to change the route and position of its poles, lines, conduits, or other construction at El Paso Electric’s expense when the El Paso City Council finds, by resolution, that such change is necessary in the closing, opening or relocation of streets or alleys, or water or sewer lines, the changing of grade of streets or alleys, the construction and maintenance of public improvements, the construction of private buildings, the construction or use of driveways or under other conditions which the City Council shall find necessary.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the City Council finds that the relocation of El Paso Electric improvements

located on the Property, and adjacent public areas and rights of way, is necessary for the construction and maintenance of city public improvements and the construction of city buildings on and adjacent to the Property.

2. That in accordance to Ordinance 16090 and the Easement, the City of El Paso requires the El Paso Electric Company to change the route or position of its poles, lines, conduits, or other construction at, and adjacent to, the Property at the El Paso Electric Company's expense.
3. That the City Engineer is authorized, and directed, to coordinate with El Paso Electric to identify the specific El Paso Electric improvements that need to be relocated to accommodate the construction of the city improvements to, and adjacent to, the Property.

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

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

- Mr. Tommy Gonzalez, City Manager
- Ms. Norma Martinez, Director of Library Services

Ms. Rosemary M. Marin, citizen, commented.

Motion made by Representative Hernandez, seconded by Representative Rivera, and carried to **APPROVE** the Resolutions.

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

NAYS: Representative Annello

EXECUTIVE SESSION

Motion made by Representative Hernandez, seconded by Representative Svarzbein, and unanimously carried that the City Council retire into **EXECUTIVE SESSION** at 1:43 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 following:

Section 551.071 CONSULTATION WITH ATTORNEY

Section 551.072 DELIBERATION REGARDING REAL PROPERTY

Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

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

NAYS: None

Motion made by Representative Annello, seconded by Representative Rodriguez, and unanimously carried to **ADJOURN** the Executive Session at 3:42 p.m. and **RECONVENE** the meeting of the City Council.

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

EX1. Guadalupe Ramirez, et al vs. the City of El Paso and State of Texas; Cause No. 2007-2568, Matter No. 07-1005-001 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera, and carried that the City Attorney, in consultation with the City Manager, be **AUTHORIZED** to proceed with an Appeal to the Texas Supreme Court and engage in all other litigation activities in the case entitled *Guadalupe Ramirez, et al. vs. City of El Paso*, pending in County Court at Law No. 5 under Cause No. 2007-2568, as recommended by the City Attorney.

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

EX2. Claim of Laura R. Aguilar. Matter No. 21-1026-11611 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and carried that the City Attorney's Office be authorized to **DENY** the claim of Laura Rachele Aguilar, in Matter Number 21-1026-11611, in its entirety.

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

EX3. Lisa Kay Riley v. City of El Paso. Matter No. 21-1021-131 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Rivera and carried that the City Attorney, in consultation with the City Manager, be **GRANTED** settlement authority to resolve the case entitled *Lisa Kay Riley v. City of El Paso, Texas*; 327th District Court; 2021DCV1037.

In addition to negotiating a settlement agreement, the City Attorney is authorized to sign all necessary documents to effectuate this authority under Matter No. 21-1024-131.

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

EX4. Villegas, Daniel v. City of El Paso, et al. Cause No. 3:15-CV-00386. Matter No. 15-1026-6957 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga, and carried that the City Attorney's Office be authorized to **DENY** the settlement demand for Villegas, Daniel vs. City of El Paso, et al. in Matter Number 15-1026-6957, in its entirety.

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

EX5. Sanchez, Edward John v. City of El Paso, 384th District Court; Cause No. 2019DCV3973. Matter No. 19-1026-10861 (551.071)

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Lizarraga, and carried that the City Attorney's Office be authorized to **ACCEPT** the mediated settlement of Sanchez, Edward John v. City of El Paso in Matter Number 19-1026-10861, in its entirety.

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

EX6. Proposed Settlement and Update - Application of El Paso Electric Company for approval to revise its Energy Efficiency Cost Recovery Factor (EECRF) and to request to establish revised cost caps, Public Utility Commission of Texas Docket No. 52081. Matter No. 21-1008-172 (551.071))

NO ACTION was taken on this item.

EX7. Update on 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.

EX8. Update on Application for Approval of Advanced Metering System (AMS); Public Utility Commission of Texas Docket No. 52040. Matter No. 21-1008-168 (551.072)

NO ACTION was taken on this item.

EX9. Discussion regarding the purchase of real property located in central El Paso, Texas. Matter No. 21-1004-1283 (551.072)

NO ACTION was taken on this item.

EX10. Discussion on the value/potential of real property located in central El Paso. Matter No. 21-1004-1274 (551.072)

NO ACTION was taken on this item.

EX11. Discussion regarding the purchase and lease of real property located in central El Paso, Texas. Matter No. 20-1004-1156 (551.072)

NO ACTION was taken on this item.

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**EX12. Economic Incentives for a Manufacturing Company to be located in the City of
El Paso. Matter No. 21-1007-2740 (551.071) (551.072) (551.087)**

NO ACTION was taken on this item.

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ADJOURN

Motion made by Representative Rivera, seconded by Representative Annello and unanimously carried to **ADJOURN** the meeting at 3:48 p.m.

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representatives Hernandez and Salcido

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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk