

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 URGENT PUBLIC NECESSITY (UPN) MEETING MINUTES
May 23, 2022
COUNCIL CHAMBERS, CITY HALL, 300 N. CAMPBELL AND VIRTUALLY
2:00 PM

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The City Attorney's Office justified this meeting and item as a matter of urgent public necessity and Council of the City Council met at the above time and place. Meeting was called to order at 2:02 p.m. Mayor Oscar Leeser present and presiding and the following Council Members answered roll call: Peter Svarzbein, Alessandra Annello, Cassandra Hernandez, Joe Molinar, Isabel Salcido, Claudia Rodriguez, Henry Rivera and Cissy Lizarraga.
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1. ORDINANCE NO. 019333

AN EMERGENCY ORDINANCE
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, thousands of migrants from Latin America have already gathered at or near the U.S.- Mexico border in hopes that President Biden will ease immigration restrictions that will make it easier to enter the United States; and

WHEREAS, because of war between Russia and Ukraine and the political situation in Turkey, Ukrainians, Russians, and Turks are arriving at the Southern border for admission to the United States; and

WHEREAS, on April 1, 2022, the Centers for Disease Control and Prevention ("CDC") announced the repeal of the Public Health Services Act, 42 U.S.C. §265 ("Title 42"), which was expected to allow for the inflow of migrants from the southern border; and

WHEREAS, federal litigation ensued to enjoin the CDC from repealing Title 42; and

WHEREAS, the Southwest had 234,088 land border encounters in the month of April, 2022; and

WHEREAS, the El Paso sector of CBP had 29,838 land border encounters in the month of April, 2022 and a total of 143,124 encounters for federal fiscal year 2022; and

WHEREAS, although Title 42 remains in place as a result of the federal litigation, the number of Border Patrol encounters remain high averaging 1,200 to 1,500 per day; and

WHEREAS, due to this high volume, the number of refugees and asylum seekers continues to climb resulting in 400-500 releases to the Annunciation House, a local non-governmental organization (“NGO”) on a daily basis; and

WHEREAS, on some days, the number of releases is lower due to the limited NGO space; and

WHEREAS, when the City faced a migrant surge in March of 2019, the NGO was able to establish over thirty hospitality sites throughout the El Paso region, versus today’s fifteen hospitality sites; and

WHEREAS, the primary challenge is that the NGO does not have the volunteer base to sustain or increase current capacity at its current fifteen hospitality sites (twelve in El Paso, Texas, one in Las Cruces, New Mexico, one in Deming, New Mexico, and another in Albuquerque, New Mexico; and

WHEREAS, although NGO volunteer recruitment efforts will continue, it is not anticipated that the volunteer base will keep up with the current demand, despite the NGO having identified additional facilities that could receive migrants; and

WHEREAS, when the U.S. Customs and Border Protection’s (“CBP”) Central Processing Center is over capacity and NGO space is unavailable, that is when the potential for street releases arises; and

WHEREAS, on May 15, 2022, the federal authorities released 119 single adults on the downtown streets of the City of El Paso; and

WHEREAS, in response to the May 15, 2022, street release, the El Paso City-County Office of Emergency Management (“OEM”) reallocated twenty-nine COVID-19 Operations staff to assist as migrant shelter surge staff, and on May 17, 2022, this staff began orientation training at Casa del Refugiado, the NGO’s largest hospitality site; and

WHEREAS, OEM has 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, 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, OEM continues to provide COVID-19 isolation and quarantine hotel support to migrant shelters, expanding operations when outbreaks occur in congregate shelter facilities; and

WHEREAS, OEM has provided isolation and quarantine services to over 2,293 migrants in close coordination with NGOs since April 2020; 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 wave of migration, including but not limited to the risk to 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 during an ongoing global pandemic; and

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

WHEREAS, the City of El Paso is home to 4 of the 28 international ports of entry between Texas and Mexico; and

WHEREAS, based on mass migration events in the recent past, the City anticipates significant delays at the international ports-of-entry to include trade; and

WHEREAS, the potential encampment of large groups of migrants on City rights of way and parks poses safety risks to migrants and citizens alike; and

WHEREAS, in awaiting the due support of the federal government, the City finds that the expenditure of public funds for staff to coordinate resources and supplies, serve as shelter surge staff and transport of 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 order to protect the health of persons in the municipality, the City Council wishes to continue to assist the local NGO with surge staff, coordination of resources and supplies, and transportation in light of the continued high number of community releases; and

WHEREAS, OEM and the City will continue to prepare and evaluate the need for mass emergency sheltering in anticipation of the eventual repeal of Title 42 and other regional migration surges that may impact the El Paso region; and

WHEREAS, this Ordinance shall remain in effect until otherwise terminated, re-enacted, or superseded by a conflicting ordinance, El Paso Local Health Authority Ordinance, or state or federal law.

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

SECTION 1. DECLARATION OF EMERGENCY AND DESCRIPTION.

- 1) A public emergency affecting life, health, property, or the public peace exists due to the release of mass groups of people without access to potable water, food, or shelter within the City of El Paso as follows:
 - a. exposing the migrants to life endangering hot or cold temperatures;
 - b. exposing the migrants and El Paso residents to the origination and spread of potential and actual disease;
 - c. exposing City property, infrastructure, migrants and El Paso citizens to safety issues involved in the potential encampment of large groups of migrants on city rights of way and parks; and
 - d. requiring the City to dedicate its first responders as necessary to maintain the public peace.

SECTION 2. EMERGENCY ACTION.

- 1) In order to protect the public health, safety and welfare, the City Manager is granted broad authority to take all action necessary to commit, direct, and assign necessary personnel and resources, with the exception of financial contributions to provide humanitarian relief to migrants released by federal authorities into the El Paso community;
- 2) The OEM will continue to request reimbursement for resources and expenditures used in addressing the continual arrival and release of migrants through the Emergency Food and Shelter Program;
- 3) Upon the City Attorney's Office review, the City Manager or designee is authorized to execute any and all necessary documents to address the public emergency.
- 4) The City Manager is directed to provide reports every thirty days to City Council of the budgetary impacts of the City's efforts to address the current immigration influx, such report to include but not be limited to expenses pertaining to transportation and personnel.
- 5) The City of El Paso may conduct emergency procurements in accordance with all applicable state law to acquire goods and services necessary to address the public emergency.

SECTION 3. CITY CHARTER 3.10.

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 El Paso City Charter Section 3.10.

Except as specified in a preceding section, this Emergency Ordinance shall take effect immediately upon its adoption and publication and it is accordingly so ordained. This Ordinance shall remain in effect for 30 days, unless re-enacted in accordance with El Paso City Charter

Section 3.10 or until the emergency is terminated, whichever is sooner.

SECTION 4. SEVERABILITY CLAUSE.

It is hereby declared to be the intention of the City Council that the phrases, sentences, paragraphs and sections of this ordinance are severable. If any part of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, sentences, paragraphs and sections.

Emergency Management Coordinator Chief Jorge Rodriguez and Deputy City Manager for Public Safety Chief Mario D'Agostino presented a PowerPoint presentation (on file with the City Clerk's Office).

Mayor Leaser and Representatives Svarzbein, Annello, Molinar, Salcido, Rivera and Rodriguez commented.

Ms. Karla Nieman, City Attorney, explained the difference between an emergency ordinance and an emergency declaration.

1ST MOTION:

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, to **ADOPT** the Emergency Ordinance.

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

NAYS: Representative Rodriguez

THE MOTION FAILED FOR LACK OF UNANIMOUS CONSENT.

2ND MOTION:

Motion made by Representative Salcido, seconded by Representative Annello and unanimously carried to **RECONSIDER** the item.

3RD AND FINAL MOTION:

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

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

NAYS: None

Mayor Leaser consented to the adoption of the Emergency Ordinance.

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ADJOURN

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** this meeting at 2:36 p.m.

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

NAYS: None
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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk