

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
February 26, 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 9:28 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Brian Kennedy, Josh Acevedo, Cassandra Hernandez, Art Fierro, Henry Rivera, and Chris Canales. Late arrival: Joe Molinar at 9:29 a.m. Isabel Salcido requested to be excused.
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AGENDA

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ITEMS 1 AND 2 WERE DISCUSSED TOGETHER

1. ORDINANCE 019594

**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, thousands of migrants from Latin America 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 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, on the eve of the expiration of Title 42, there were an estimated 152,000 migrants in northern Mexico with approximately 60,000 in the State of Chihuahua, and 35,000 in Ciudad Juarez according to U.S. federal statistical records; and

WHEREAS, the Southwest had 249,785 land border encounters in the month of December, 2023; and

WHEREAS, the El Paso sector of U.S. Customs and Border Patrol ("CBP") had 33,970 land border encounters in the month of December, 2023 and a total of 78,481 encounters for federal fiscal year 2024; and

WHEREAS, when the CBP Central Processing Center is over capacity and the non-governmental organizations (NGOs) space is unavailable, that is when the potential for street releases arises; and

WHEREAS, CBP has released many migrants onto downtown streets leaving many migrants without shelter; and

WHEREAS, in the month of February 2024, approximately 428 migrants have been released into the community weekly; and

WHEREAS, in response to the street releases, 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, beginning in late August 2022, the El Paso sector experienced a surge of over 2,000 migrants presenting themselves daily to CBP, primarily made up of unsponsored single adults from Venezuela, resulting in over 1,000 street releases by CBP; and

WHEREAS, in the Fall of 2022, 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, due to this high volume, the number of refugees and asylum seekers released to the NGO and the City's Migrant Welcome Center, was over 1,000 on a daily basis; and

WHEREAS, on September 7, 2022, the City and OEM stood up a migrant Welcome Center to assist with transportation assistance providing services and meals to over 19,300 migrants through October 20, 2022; and

WHEREAS, in September, 2023, the City purchased the former Morehead Middle School campus to serve as its Community Readiness Center to assist migrants on a short-term basis; 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, in response to the number of migrants arriving at the border, on January 5, 2023, the Department of Homeland Security created a humanitarian parole program for migrants from Cuba, Haiti, and Nicaragua similar to the program already available to Venezuelans; and

WHEREAS, on January 8, 2023, President Biden visited the border to assess the situation in part because the number of migrants has gained the attention of the media and national leadership; 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, on March 12, 2023, border officials barricaded and closed down the Paso del Norte bridge due to a breach of public safety involving hundreds of migrants present on the bridge due to rumors about the relaxation of immigration restrictions circulated on social media sites; and

WHEREAS, CBP has increased the number of family units released into the community causing wait times for transportation to final destinations to increase and other logistical challenges; 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 this wave of migrants; and

WHEREAS, the Director of Aviation has the authority, as granted by the El Paso City Council, to manage the day-to-day operation 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, EPIA in recent past, became saturated with migrants awaiting air travel and could need 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 4 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 encampment of large groups of migrants on City rights of way, parks and other City property has led to street closure and cessation of the streetcar service; 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 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 have and will continue to prepare and evaluate the need for mass emergency sheltering thanks to the expiration of Title 42 and other regional migration surges that may impact the El Paso region; 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.

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.

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.

1ST MOTION

Motion made by Representative Hernandez, seconded by Representative Kennedy, and unanimously carried to **AMEND** the Ordinance by adding the following language:

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.

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

NAYS: None

ABSENT: Representative Salcido

2ND AND FINAL MOTION:

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried that the Ordinance be **ADOPTED AS AMENDED**.

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

NAYS: None

ABSENT: Representative Salcido

Mayor Leeser consented to the adoption of the Emergency Ordinance.

2. **ITEM:** Discussion and action on an Emergency Ordinance extending Emergency Ordinance No. 019485 due to a humanitarian, security, and economic crisis resulting from a mass migration through El Paso.

Mayor Leeser and Representatives Acevedo, Hernandez, Molinar, and Canales commented.

The following City staff members commented:

- Assistant Fire Chief Jorge Rodriguez
- Mr. Mario D'Agostino, Deputy City Manager
- Mr. Cary Westin, Interim City Manager
- Ms. Karla Nieman, City Attorney

The following members of the public commented:

1. Mr. Alan Lizarraga
2. Ms. Dulce Carlos
3. Mr. Dylan Corbett
4. Ms. Ivonne Diaz
5. Ms. Adriana Cadena
6. Ms. Irma Cruz
7. Ms. Angelica Hinojos

1ST MOTION

Motion made by Representative Hernandez, seconded by Representative Kennedy, and unanimously carried to **AMEND** the Ordinance by adding the following language:

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.

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

NAYS: None

ABSENT: Representative Salcido

2ND AND FINAL MOTION:

Motion made by Representative Rivera, seconded by Representative Fierro, to **EXTEND** Emergency Ordinance No. 019485 due to a humanitarian, security, and economic crisis resulting from a mass migration through El Paso.

AYES: Representatives Kennedy, Hernandez, Molinar, Fierro, Rivera, Canales, and Mayor Leeser

NAYS: Representative Acevedo

ABSENT: Representative Salcido

The motion FAILED due to lack of unanimous vote of the Council Members present as required for adoption by El Paso City Charter Section 3.10.

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3. For Notation Only: Formal Report of the Financial Oversight and Audit Committee Meeting held on January 22, 2024.

1. Update on Cybersecurity Assessment Agreement between the City of El Paso and the Cybersecurity and Infrastructure Security Agency (CISA) of the Department of Homeland Security (DHS).
2. Status Update on the Special Audit requested by City Council.
3. Discussion and Action on FY 2023-2024 Audit Plan 1st Quarter Updates.
 - Motion made by Representative Molinar, seconded by Representative Kennedy and approved by Representative Kennedy, Representative Fierro and Representative Molinar to accept the 1st Quarter Update.
4. Discussion on Client Surveys.

Mr. Edmundo Calderon, Chief Internal Auditor, provided a briefing of the January 22, 2024 meeting.

Mayor Leeser and Representative Kennedy commented.

Ms. Lisa Turner, citizen, commented.

NO ACTION was taken on this item.

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4. Presentation on updated land use assumptions and capital improvements plan as required by Chapter 395 of the Texas Local Government Code, prior to the re-evaluation of the existing impact fee structure for water and wastewater services. The draft impact fee calculations will also be presented.

Mr. Andrew Rheem, Raftelis Financial Consulting Senior Manager, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Leeser and Representatives Acevedo, Hernandez, Fierro, Rivera, and Canales commented.

The following City staff members commented:

- Mr. John Balliew, El Paso Water President and Chief Executive Officer
- Mr. Kevin Smith, Planning and Inspections Assistant Director

The following members of the public commented:

1. Mr. Manuel Moreno
2. Ms. Lisa Turner
3. Mr. Dave Marino submitted a statement in favor of the item
4. Ms. Jenny Solo submitted a statement in favor of the item

NO ACTION was taken on this item.

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The Work Session was **RECESSED** at 12:19 p.m. for lunch.

The Work Session was **RECONVENED** at 1:30 p.m.

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5 FY 2023-2024 First Quarter Financial Report.

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

Mayor Leeser and Representatives Acevedo, Hernandez, and Molinar commented.

Mr. Cary Westin, Interim City Manager commented.

NO ACTION was taken on this item.

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ITEMS 6 AND 7 WERE DISCUSSED TOGETHER

6. Climate and Sustainability Management Update.

Ms. Nicole Ferrini, Climate and Sustainability Officer, presented a PowerPoint presentation (copy on File in the City Clerk's Office).

Representatives Acevedo and Canales commented.

NO ACTION was taken on this item.

7. **R E S O L U T I O N**

WHEREAS, through the Inflation Reduction Act of 2022 (IRA), Congress provided many tools to pursue greenhouse gas (GHG) pollution reductions, including the Climate Pollution Reduction Grants (CPRG) program;

WHEREAS, the El Paso Metropolitan Statistical Area (MSA), as one of the 67 most populous metropolitan areas, and with the City of El Paso as the lead entity, was awarded a planning grant under CPRG to develop a Comprehensive Climate Action Plan (CCAP);

WHEREAS, the City of El Paso and its regional partners of the Paso del Norte Community Climate Collaborative (PDNC3) have the purpose of building a partnership to accelerate the work of the El Paso MSA addressing environmental justice and climate empowering community-driven solutions in overburdened and underserved areas across the region;

WHEREAS, the Leadership Steering Committee (LSC) committee will function as a senior level advisory group charged with guiding the CCAP scope of work led by the City of El Paso;

WHEREAS, the LSC will be comprised of multiple public entities committed through an interlocal agreement. Each entity will assign a point of accountability as an official representative; and

WHEREAS, the LSC will participate in data collection efforts, engagement and outreach activities within their region, and review and comment regarding CPRG deliverables.

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

That the Mayor be authorized to sign an Interlocal Agreement for the City of El Paso, in a form substantially similar to that which is attached to this Resolution as Attachment A*, with all members of the Leadership Steering Committee relating to the CPRG Program.

Motion made by Representative Acevedo, seconded by Representative Molinar, and unanimously carried to **APPROVE** the Resolution.

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

NAYS: None

ABSENT: Representative Salcido

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8. Discussion on the lawsuit brought by the Texas Attorney General against El Paso non-profit Annunciation House, to include Annunciation House's response and what steps the City can take to protect the network of Non-Governmental Organizations (NGOs) supporting the City in the migrant response.

Mayor Leeser and Representatives Hernandez, Molinar, and Canales commented.

1ST MOTION

Motion made by Representative Fierro, seconded by Representative Rivera, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 2:06 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 item:

Section 551.071 CONSULTATION WITH ATTORNEY

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

NAYS: None

ABSENT: Representative Salcido

2ND AND FINAL MOTION

Motion made by Representative Rivera, seconded by Representative Fierro, and unanimously carried to **ADJOURN** the Executive Session at 6:17 p.m. and **RECONVENE** the meeting of the City Council.

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Salcido

NO FURTHER ACTION was taken on this item.

EXECUTIVE SESSION

Motion made by Representative Fierro, seconded by Representative Rivera, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 2:06 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 and Item 8 of the agenda:

Section 551.071 CONSULTATION WITH ATTORNEY

Section 551.072 DELIBERATION REGARDING REAL PROPERTY

Section 551.074 PERSONNEL MATTERS

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

NAYS: None

ABSENT: Representative Salcido

Motion made by Representative Rivera, seconded by Representative Fierro, and unanimously carried to **ADJOURN** the Executive Session at 6:17 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made.

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

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Salcido

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EX1. El Paso Electric Company's Notice of Application to Reconcile Fuel Costs; HQ#UTILITY-15 (551.071)

NO ACTION was taken on this item.

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EX2. El Paso Electric Rate Case Expense - PUC#52159; HQ#UTILITY-30 (551.071)

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Fierro, and unanimously carried that the City Attorney in consultation with the City Manager be **AUTHORIZED** to enter into a letter agreement regarding Rate Case Expenses in the Application of El Paso Electric Company to Change Rates, under the Texas Public Utility Commission, Docket No. 52195, in Matter Number UTILITY-30, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

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

NAYS: None

ABSENT: Representative Salcido

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EX3. Anna Barnes v. City of El Paso, Texas, Gregory Allen, Oliver K. Meise and Jarred R. Frank; Western District of Texas; Cause No.: 3:22-CV-161 (551.071)

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Rivera, and unanimously carried that the City Attorney's Office be **AUTHORIZED** to engage in settlement negotiations and/or settle the matter of Anna Barnes v. City of El Paso, Texas, et al., Cause No. 3:22-CV-161 (55.071) to hire and retain outside counsel in the matter; and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

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

NAYS: None

ABSENT: Representative Salcido

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EX4. Jessica Weaver individually and as representative of the Estate of A.M. v. ASM Global, LLC d/b/a Destination El Paso, ASM Global Parent, Inc., and City of El Paso; In the 120th District Court; Cause No.:2023DCV2119 (551.071)

NO ACTION was taken on this item.

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EX5. Contract with El Paso Zoological Society, HQ#2062 (551.071)

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Canales, and unanimously carried that the City Council **APPRECIATES AND THANKS** the El Paso Zoological Society for its work with El Paso Zoo & Botanical Gardens under the 2012 License Agreement, and after the expiration of the Agreement on March 17, 2024, looks forward to discussing any proposed support under the El Paso Zoological Society's 1963 Articles of Incorporation.

City Council further **DIRECTS** the City Manager to take all steps and actions necessary, including the execution of any required documents, to close out the License Agreement upon expiration, to notify the members of the Board, and that all current Zoo memberships will be honored for their full term.

AYES: Representatives Kennedy, Acevedo, Hernandez, Molinar, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Salcido

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EX6. Discussion on purchase, exchange, lease, or value of real property located in Downtown El Paso Matter No. 16-1040-1083.046 (551.071) (551.072)

NO ACTION was taken on this item.

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EX7. Complaint regarding elected City Official - Matter No. HQ # 1453 (551.071) (551.074)

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Molinar, and carried that the Mayor issue a letter of Reprimand against Representative Rivera as a result of a complaint regarding allowing a non-city employee to supervise and direct the day to day duties of a city employee and allowing a non-city employee access to city resources

AYES: Representatives Kennedy, Acevedo, Molinar, Fierro, and Canales
NAYS: Representative Rivera
ABSENT: Representative Salcido
ABSTAIN: Representative Hernandez

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EX8. Enforcement of El Paso City Code Chapter 5.09 (551.071)

NO ACTION was taken on this item.

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ADJOURN

Motion made by Representative Rivera, seconded by Representative Fierro, and unanimously carried to **ADJOURN** the meeting at 6:51 p.m.

AYES: Representatives Kennedy, Acevedo, Hernandez, Molinar, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Isabel Salcido

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APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk