

OSCAR LEESER
MAYOR

TOMMY GONZALEZ
CITY MANAGER



CITY COUNCIL
BRIAN KENNEDY, DISTRICT 1
ALEXSANDRA ANNELLO, 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 22, 2023
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 9:24 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Brian Kennedy, Alexsandra Annello, Cassandra Hernandez, Joe Molinar, Isabel Salcido, Art Fierro, Henry Rivera, and Chris Canales.

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AGENDA
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ITEMS 1 AND 2 WERE TAKEN TOGETHER

1. ORDINANCE 019497

**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 162,317 land border encounters in the month of March, 2023; and

WHEREAS, the El Paso sector of CBP had 39,512 land border encounters in the month of March, 2023 and a total of 265,037 encounters for federal fiscal year 2023; and

WHEREAS, when the U.S. Customs and Border Protection's ("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 April 2023, approximately 1,750 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 with over 40 staff currently assigned; 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, 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, 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 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, 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 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.

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.

2.

ORDINANCE 019498

**AN EMERGENCY ORDINANCE
EXTENDING EMERGENCY ORDINANCE NO. 019485 DUE TO A
HUMANITARIAN, SECURITY, AND ECONOMIC CRISIS
RESULTING FROM A MASS MIGRATION THROUGH EL PASO**

WHEREAS, on May 8, 2023 the El Paso City Council of passed Emergency Ordinance No. 019485 "Due to a Humanitarian, Security, and Economic Crisis Resulting from a Mass Migration through the City of El Paso (the "City"); and

WHEREAS, for federal fiscal year 2023, Southwest encounters were at 1,055,320 of which 419,147 were Title 42; and

WHEREAS, the El Paso sector of CBP had 39,512 land border encounters in the month of March, 2023; and

WHEREAS, thousands of migrants from Latin America have gathered at or near the U.S.- Mexico border awaiting processing after Title 42, which is a COVID-19 era mechanism, ended along with the expiration of the Public Health Emergency for COVID-19; and

WHEREAS, Secretary Mayorkas of the Department of Homeland Security (DHS) has commented that he expected a surge in migration after Title 42 ends; and

WHEREAS, prior to the expiration of Title 42, there were an estimated 152,000 migrants in northern Mexico with approximately 60,9000 in the State of Chihuahua, and 35,000 in Ciudad Juarez according to U.S. federal statistical records; and

WHEREAS, DHS has created an immigration benefit through which migrants from certain nations can request asylum and be paroled into the country; and

WHEREAS, upon the migrants' arrival into the United States, they are held by CBP who processes, sets for hearing and then releases migrants onto El Paso streets with little to no resources; and

WHEREAS, the number of migrants in need of shelter exceeds the shelter space available through local, state, and federal partnerships; and

WHEREAS, the City lacks an extensive transportation infrastructure to facilitate the movement of migrants out of the region further increasing demand on shelters; and

WHEREAS, state and federal infrastructure and support is critical to support local efforts to effectively and safely care for mass groups of migrants entering the City; and

WHEREAS, Customs and Border Protection (CBP) has surged its personnel and resources along the southern border to increase processing capacity to ensure a humane environment for those being processed; and

WHEREAS, the primary challenge for the non-governmental organizations (NGOs) assisting in the effort is that the NGO's do not have the volunteer base to sustain or increase current capacity at their current hospitality sites; and

WHEREAS, the Office of Emergency Management has created a job specification, for general disaster operations to include humanitarian relief duties to hire and assign staff to assist with migrant operations; 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, the number of migrants released into the community continues to grow; and has been as high as 1,700 in a single day; and

WHEREAS, the volume of migrants at the border and released into the United States has gained the attention of international and national media; 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 extremely high or freezing low temperatures and the inherent risks that come with increased demand on local shelters; and

WHEREAS, donations to the migrants from the public are best received at the assisting NGOs and shelters in lieu of delivery to spaces where migrants gather; and

WHEREAS, additional shelter space is being prepared for the thousands of migrants released into the community; and

WHEREAS, camping in public spaces is prohibited under Section 48.05 of the Texas Penal Code; 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 those who would take advantage of this wave of migrants; and

WHEREAS, in recent months, the El Paso International Airport became saturated with migrants awaiting air travel and shelter, and the City of El Paso may need to take 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 4 of the 28 international ports of entry between Texas and Mexico; and

WHEREAS, based on mass migration events in the recent 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, which is concerning, as 161,439 cargo trucks pass across the Bridge of the Americas alone annually; 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, 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, 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, the condition necessitating the declaration of a state of disaster continues to exist.

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 May 8, 2023 and extended by unanimous vote of City Council 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.

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

Chief Rodriguez mentioned a 50% decrease in the number of daily crossings since the expiration of Title 42; he also praised the work done by the non-governmental organizations (NGOs) and reminded the public that they are in constant need of donations.

Mayor Leeser commented on the City's preparedness to avoid street releases by having unused schools ready to house migrants.; he added that local law enforcement officers were assisting Border Patrol and not enforcing immigration laws.

Representative Salcido thanked Chief Rodriguez for all the efforts and Mayor Leeser for calling the emergency declaration.

Ms. Laura Cruz-Acosta, Strategic Communications Director, highlighted the City's website where real-time stats related to migrant numbers are posted and shared the donation link for the NGOs.

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

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

NAYS: None

Mayor Leeser consented to the adoption of the Emergency Ordinances.

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3. Presentation, discussion and action on the 88th Regular Session of the Texas State Legislature.

Motion made by Representative Hernandez, seconded by Representative Salcido, and unanimously carried to **POSTPONE** the item for **TWO WEEKS**.

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

NAYS: None

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4. Presentation and update from the Project Arriba describing progress toward their program supporting local healthcare professionals, teachers and information technologists, in accordance with the Chapter 380 Economic Development Program Grant Agreement between the City of El Paso and the Project Arriba, as approved on October 2, 2018.

Ms. Alejandra Gorski, Senior Economic Development Compliance Analyst, introduced the item.

Mr. Roman Ortiz, Project Arriba President and Chief Executive Officer, presented a PowerPoint presentation (copy on file in the City Clerk's Office) and answered questions posed by Council members.

Mayor Leeser and Representatives Annello, Hernandez, Salcido, and Fierro commented.

NO ACTION was taken on this item.

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EXECUTIVE SESSION

Motion made by Representative Rivera, seconded by Representative Salcido, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 9:59 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 551.072 DELIBERATION REGARDING REAL PROPERTY
 Section 551.074 PERSONNEL MATTERS

AYES: Representatives Kennedy, Annello, Hernandez, Molinar, Salcido, Fierro, Rivera, and Canales
 NAYS: None

Motion made by Representative Salcido, seconded by Representative Rivera, and unanimously carried to **ADJOURN** the Executive Session at 3:33 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made:

AYES: Representatives Annello, Hernandez, Molinar, Salcido, Fierro, and Rivera
 NAYS: None
 NOT PRESENT FOR THE VOTE: Representatives Kennedy and Canales

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EX1. Rojo, Rocio Guadalupe, Individually and as Next Friend of Isabela Rojo, a Minor v. City of El Paso. Matter No. 20-1036-3447.001. (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Rivera, and unanimously carried that the City Attorney's Office, in consultation with the City Manager, be **AUTHORIZED** to negotiate the settlement and/or make a settlement offer in the case of *Rocio Guadalupe Rojo, individually and as Next Friend of Isabela Rojo v. City of El Paso*, Cause No. 2021DCV3826, in Matter No. 20-1036-3347.001, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority, should a settlement be reached in the case.

AYES: Representatives Annello, Hernandez, Molinar, Salcido, Fierro, and Rivera
 NAYS: None
 NOT PRESENT FOR THE VOTE: Representatives Kennedy and Canales

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EX2. William C. Haywood v. City of El Paso, Gregory Allen, Officer Otero, McKinney, Guevara, Escajeda, Dela Paz. Matter No. 20-1026-11325. (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Rivera and carried that the City Attorney's Office, in consultation with the City Manager, be **AUTHORIZED** to participate in settlement negotiations in the matter *William C. Haywood vs. City of El Paso, et al.*, Case No. 3:20-cv-00114, in Pro Law Matter No. 20-1026-11325, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority, should a settlement be reached in the case.

AYES: Representatives Kennedy, Annello, Hernandez, Molinar, Salcido, Fierro, and Rivera
 NAYS: Representative Canales

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EX3. Daniel Villegas v. City of El Paso and El Paso Police Department. Matter No. 15-1026-6957. (551.071)

NO ACTION was taken on this item.

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EX4. Discussion on purchase, exchange, lease, or value of real property located in Downtown El Paso. Matter No. 16-1040-1083.046 and HQ# 23-495. (551.071) (551.072)

NO ACTION was taken on this item.

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EX5. Discussion on purchase, exchange, lease, or value of real property located in Northeast El Paso. HQ#23-807. (551.072)

NO ACTION was taken on this item.

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EX6. Interim City Manager Employment Agreement HQ# 23-836. (551.071) (551.074)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Fierro and unanimously carried that City Council appoints Cary Westin to serve as Interim City Manager from June 30, 2023, at will, until a City Manager is appointed as required by the City Charter under the following terms:

1. annual salary of \$320,000.00;
2. benefits currently received as the Chief Transition Officer; and
3. Mr. Cary Westin will carry out the duties and responsibilities of the City Manager under the City Charter, City Code, Ordinances, and City Council policies and directives.

That the City Attorney's Office and the Human Resources Department shall prepare the necessary documents and the Mayor is authorized to execute any documents to effectuate this motion.

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

NAYS: None

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EX7. Employee Related Matter HQ# EEOC 2. (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Fierro, and unanimously carried that

1. the City Attorney's Office be authorized to deny the settlement demand and to hire and retain outside counsel regarding any claim or allegation made regarding this matter to represent the City, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority; and
2. that City Council took action on February 28, 2023 regarding the complaint against Representative Molinar and Representative Molinar took the required training; therefore the Council does not need to further comment or take any additional action.

Ms. Kristen Hamilton, Senior Assistant City Attorney, corrected the date for the record to make sure it should read "February 28, 2023".

Mayor Leeser and Representative Hernandez commented.

Ms. Karla Nieman, City Attorney, commented.

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

NAYS: None

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EX8. City Attorney and City Manager annual performance evaluations. Matter No. 21-1043-688 and HQ# 816. (551.071) (551.074)

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 3:42 p.m.

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

NAYS: None

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APPROVED AS TO CONTENT:



Laura D. Prine, City Clerk