

SPECIAL CITY COUNCIL MEETING AGENDA

Friday, April 24, 2020 at 9:30 AM



CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004

700 N. Main St.
PHONE (575) 541-2067

Mayor
Ken Miyagishima

Mayor Pro-Tem
Kassandra Gandara

Councilors
Tessa Abeyta-Stuve
Gabriel Vasquez
Johana Bencomo
Gill Sorg
Yvonne Flores

**Individuals may view meetings live at
lascruces.civicweb.net**

The health, safety and well-being of our residents and businesses are a top priority for City Council and the leadership in Las Cruces. As such, and consistent with and in support of the direction from Gov. Michelle Lujan Grisham and the New Department of Health public health order the Special Council Meeting will be held via video conference. In an effort to seek public input we ask that if you have comments/concerns/questions please e-mail your Councilor as follows:

District 1 – kgandara@las-cruces.org
District 2 – tstuve@las-cruces.org
District 3 – gvasquez@las-cruces.org
District 4 – jbencomo@las-cruces.org
District 5 – gsorg@las-cruces.org
District 6 – yflores@las-cruces.org
Mayor – mayor@las-cruces.org

If you need an accommodation for a disability to enable you to fully participate in this event please contact us 72 hours before this event at [541-2115/V](tel:541-2115).

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**20-147****Type of Action:**☒ **Resolution**☐ **Ordinance**☐ **TIDD Resolution****Council Action and Executive Summary**

District:	☒ 1	☒ 2	☒ 3	☒ 4	☒ 5	☒ 6
1st Reading:				Adopted:	April 24, 2020	
Drafter:	David Dollahon			Department:	City Manager's Office	
Program:	Community & Council Support			Line of Business:	Community & Council Support	

Title:	A RESOLUTION EXTENDING THE TERM FOR THE MAYOR'S EMERGENCY PROCLAMATION.
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TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial****PURPOSE(S) OF ACTION:**

To approve extension of the term of the Mayor's Emergency Proclamation.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On March 11, 2020, Governor Michelle Lujan Grisham issued an Executive Order declaring a state of public health emergency and invoked her executive powers as authorized by the All Hazard Emergency Management Act and the Emergency Licensing Act. This action was taken in response to a declared pandemic of the COVID-19 virus. Since that time, the New Mexico Department of Health has issued at least two separate Public Health Emergency Orders in an effort to slow or halt transmission of the virus.

On March 27, 2020, the City Council passed the Emergency Declaration Ordinance, LCMC 1997, Chapter 9, Art. III Sections 9-35 through 9-41. It provides the Mayor and Mayor Pro Tem the authority to take immediate action for the protection of life and property, and for the preservation of public peace, safety, health, welfare, and for the continuity of efficient government operations. It also allows the City Council to authorize limited action in response to an emergency situation. The Emergency Declaration Ordinance authorizes the Mayor and Council to exercise their emergency powers through a proclamation. The term of the proclamation is three (3) days, but can be extended for up fourteen (14) days at a time.

On April 7, 2020 the Mayor issued an Emergency Proclamation, which originally expired three days later at noon on April 10, 2020 pursuant to LCMC 1997, Section 9-38(B). This action was taken so that the City may have the potential to receive reimbursement for funding and programs from the Federal Emergency Management Agency (FEMA) based on qualified expenses as Federal assistance is ordered. On the morning of April 10, 2020, per the Ordinance, the City Council met in a special meeting to pass Resolution 20-133, extending the term of the Emergency Proclamation by fourteen (14) days to expire on April 24, 2020 pursuant to Section 9-38(C).

This proposed Resolution, if approved, would grant an extension to the term of the Emergency Proclamation to run concurrent with the New Mexico Governor's Executive Order 2020-022 (Attachment "A") so long as the Executive Order is in effect or by separate action of the City Council rescinding the Mayor's Emergency Proclamation, whichever occurs first. No further action would be required of the City Council to continue the extension of the term of the Emergency Proclamation if this Resolution is approved, provided the Governor doesn't end her Executive Order or the City Council approves a separate resolution rescinding the Emergency Proclamation. In light of the current COVID-19 pandemic, and based on the NM Department of Health's

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presentation to the City Council on April 17, 2020 indicating that the peak for New Mexico's pandemic is not expected to be before mid-May 2020, this Resolution is seen as a more efficient action rather than requiring a new resolution every 14 days.

SUPPORT INFORMATION:

[Exhibit "A" Proclamation](#)

[Attachment "A" EO 2020 022](#)

ANNUAL BUDGET APPROVAL:

☐ Yes

☐ No

☒ N/A

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☐ No

☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote yes, this would approve the Resolution and allow the term of the Mayor's Emergency Proclamation to be extended as long as the Governor's Executive Order is in place or unless rescinded by separate, future resolution of the City Council.
2. Vote no, this would not approve the Resolution and the term of the Mayor's Emergency Proclamation would not be extended.
3. Vote to amend would delay extending the the Mayor's Emergency Proclamation.
4. Vote to table, this will postpone consideration of the Resolution and staff will require direction from City Council.

RESOLUTION 20-147

A RESOLUTION EXTENDING THE TERM FOR THE MAYOR'S EMERGENCY PROCLAMATION.

The City Council is informed that:

WHEREAS, as of Monday, April 20, 2020 at least 1,971 New Mexicans have tested positive for the novel coronavirus, COVID-19 and at least fifty-eight have died; and

WHEREAS, at least seventy-three residents of Doña Ana County have tested positive of the novel coronavirus, COVID-19, with one death; and

WHEREAS, COVID-19, a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can spread via droplets from person to person; and

WHEREAS, on March 11, 2020 the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak of COVID-19 a "Pandemic"; and

WHEREAS, on March 11, 2020, Governor Michelle Lujan Grisham proclaimed a public health emergency and invoked all powers under the All Hazards Emergency Act (§§12-10-1 through 12-10-10, NMSA 1978), for a minimum period of thirty (30) days; and

WHEREAS, on March 27, 2020 the City Council passed the Emergency Declaration Ordinance, LCMC 1997, Art. III Sections 9-35 through 9-41, which provides the Mayor and Mayor Pro Tem the authority to take immediate action for the protection of life and property, and for the preservation of public peace, safety, health, welfare, and for the continuity of efficient government operations and allows the City Council to authorize limited action in response to an emergency situation; and

WHEREAS, the Emergency Declaration Ordinance authorizes the Mayor and Council to exercise their emergency powers through a proclamation for term of three (3) days, but can be extended for up fourteen (14) days at a time; and

WHEREAS, on April 7, 2020, Mayor Miyagishima issued an Emergency Proclamation pursuant to the Emergency Declaration Ordinance and attached as Exhibit A. This action was taken so that the City may have the potential to receive reimbursement for funding and programs from the Federal Emergency Management Agency (FEMA) based on qualified expenses as Federal assistance is ordered; and

WHEREAS, pursuant to LCMC 1997, Section 9-38(B), the original Emergency Proclamation was schedule to expire at noon on Friday, April 10, 2020; and

WHEREAS, the City Council, at a special meeting on April 17, 2020, approved Resolution 20-133 extending the Proclamation for an additional fourteen (14) days pursuant to LCMC 1997, Section 9-38(C) and to run concurrent with the Governor of the State of New Mexico's Executive Order 2020-022; and

WHEREAS, the City Council wishes that the Proclamation be extended, for a term pursuant to LCMC, 1997, Section 9-38(C), to run concurrently with the State of New Mexico declared state of emergency for fourteen (14) days and to renew every fourteen (14) days and run concurrently with the State of New Mexico declared state of emergency in response to the novel COVID 19 pandemic, or until such time that the governing body cancels the Proclamation, which ever time is sooner.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Las Cruces:

(I)

Agenda Item #2.1.

THAT the Emergency Proclamation (Exhibit "A") issued by Mayor Miyagishima on April 7, 2020 is hereby extended pursuant to LCMC 1997, Section 9-36, to run concurrent with the State of New Mexico declared state of emergency for fourteen (14) days and to renew every fourteen (14) days and run concurrently with the State of New Mexico declared state of emergency in response to the novel COVID 19 pandemic, or until such time that the governing body cancels the Proclamation, which ever time is sooner.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS



Office of the Mayor

KENNETH D. MIYAGISHIMA
MAYOR

CITY OF LAS CRUCES

CITY OF LAS CRUCES

PROCLAMATION OF EMERGENCY

WHEREAS, pursuant to LCMC Art. III, Sec. 9-35, Emergency Declaration Ordinance, the Mayor has the authority to proclaim that a state of emergency exists in the municipality, after consultation with the emergency manager, chief of police, or fire chief; and

WHEREAS, such proclamation allows the Mayor to prohibit and/or require certain actions to maintain the public peace, health, welfare, or safety, and if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act; and

WHEREAS, LCMC Art. III, Sec. 9-41, defines a public health emergency as an emergency need for health care, medical services, or public health, welfare, or safety initiatives to respond to disaster, significant outbreak of infectious disease, bioterrorist attack, or other significant catastrophic event; and

WHEREAS, LCMC Art. III, Sec. 9-41, defines a civil emergency, as conditions of unrest, including but not limited to riot, civil disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism, or sabotage; civil emergency may include actions that evidence mass panic which causes a shortage of basic food, water, health and hygiene products, or other basic life necessities; and

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019, referred to as "COVID-19", that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and from one county to another; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in the nation through its support of state and community-led preparedness and response efforts; and

WHEREAS, the New Mexico Department of Health continues to identify a growing number of individuals infected with COVID-19 in New Mexico, including cases in Dona Ana County; and

WHEREAS, on March 11, 2020, Governor Michelle Lujan Grisham, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health; and

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2, as an infection, a disease, a syndrome,

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a symptom, an injury or other threat that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico, and

WHEREAS, the further spread of COVID-19 in the City of Las Cruces poses a threat to the health, safety, and well-being to the residents of the City, including the potential loss of life, serious illness resulting from exposure to the COVID-19 virus, significant negative impact on the social, economic, and overall quality of life of the residents of Las Cruces;

NOW THEREFORE, I, Kenneth Miyagishima, Mayor of the City of Las Cruces, New Mexico, hereby declare that an emergency exists in the City. As a result of the emergency, events have caused or are causing danger of injury or damage to persons and property within the City. I hereby invoke LCMC Sections 9-35 through 9-41, to preserve the peace, health, welfare, and safety in the City of Las Cruces. In particular, I am invoking the following actions:

- I. I order the following:
 - a. The residents of the City of Las Cruces shall comply with all current State of New Mexico Executive orders and New Mexico Department of Health Public Health Emergency Orders, including the Stay Home Health Order issued by Governor Michelle Lujan Grisham that extends until April 30, 2020.
 - b. This order is intended to run concurrently with the State of New Mexico Executive Order 2020-022 and all renewals of Executive Order 2020-004, other powers invoked in that Order, and all other Orders and Directives contained in the Executive Orders Tied to the Public Health Emergency.
 - c. The City Manager shall direct city employees, as he deems appropriate and necessary, to perform emergency functions.
 - d. All available resources of the City shall be used to address the emergency as reasonably necessary and as allowed by City ordinance.
 - e. Mayor Pro Tem Kasandra Gandara, Interim City Manager David Maestas, Assistant City Manager David Dollahon, and Interim Assistant City Manager Barbara DeLeon, respectively are my substitute signatories in my absence, for emergency obligation of funds during the pendency of the declared emergency.
- II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day to day activities:
 - a. For those at high risk (elderly and immune compromised individuals), secure three (3) months of all necessary medical prescriptions;
 - b. Avoid contact with people who are sick;
 - c. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
 - d. If soap and water are not available, use a hand sanitizer that contains at least 60% alcohol;
 - e. To the extent possible, avoid touching high-touch surfaces in public places, such as door handles and handrails;
 - f. Use a tissue or sleeve to cover your hand or finger if you must touch something;

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- g. Avoid handshaking;
- h. Avoid touching our face, nose, and eyes;
- i. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example: tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices);
- j. Follow all Executive Orders and Public Health Emergency Orders for social distancing and self-quarantine;
- k. Practice social distancing, remaining six (6) feet apart from others and avoiding all unnecessary trips to public places such as grocery stores and pharmacies. Such travel should be limited to only necessary food and medication.
- l. Avoid all non-essential travel.

III. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and direct the City Manager to disseminate the contents hereof to the public by appropriate news media, government media and website, and other means available.

IV. Term.

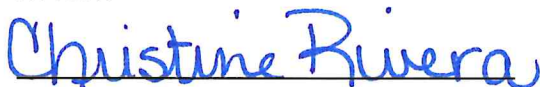
This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Las Cruces, New Mexico.

DONE at Las Cruces, New Mexico this 7th day of April, 2020, at the hour of 1:15 pm (MST).



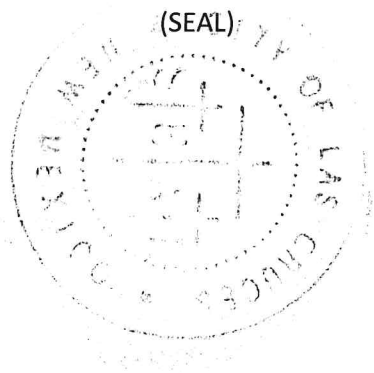
KENNETH MIYAGISHIMA, MAYOR
City of Las Cruces, New Mexico

ATTEST:



CHRISTINE RIVERA, ACTING CITY CLERK

(SEAL)





State of New Mexico

Michelle Lujan Grisham
Governor

EXECUTIVE ORDER 2020-022

**RENEWING THE STATE OF PUBLIC HEALTH EMERGENCY DECLARED IN
EXECUTIVE ORDER 2020-004, OTHER POWERS INVOKED IN THAT ORDER, AND
ALL OTHER ORDERS AND DIRECTIVES CONTAINED IN EXECUTIVE ORDERS
TIED TO THE PUBLIC HEALTH EMERGENCY**

On December 31, 2019, several cases of pneumonia with an unknown cause were detected in Wuhan City, Hubei Province, China, and reported to the World Health Organization ("WHO"). The underlying virus giving rise to those reported instances of respiratory illness was later identified as a novel coronavirus disease which has been referred to "COVID-19."

By the time the first COVID-19 cases had been confirmed in New Mexico, on March 11, 2020, COVID-19 had already spread globally and throughout the United States. At that time, more than 100,000 people had been infected globally and there were more than 1,000 cases in the United States, spread out over 39 states.

On March 11, 2020, I issued Executive Order 2020-004, which declared a state of public health emergency under the Public Health Emergency Response Act and invoked powers provided by the All Hazards Emergency Management Act and the Emergency Licensing Act. That public health emergency was declared for a period of 30 days.

Now, less than four weeks later, the world is reeling from staggering increases in cases of COVID-19 and deaths related to COVID-19. The WHO reports more than 1.2 million worldwide infections and at least 67,5994 related deaths. According to the United States Centers for Disease Control and Prevention ("CDC"), at least 330,891 people have been infected in the United States,

including confirmed cases in every state, with at least 8,910 related deaths. The numbers of cases and deaths are continuing to increase exponentially throughout many parts of the world and in many parts of the United States. That is why the President of the United States declared a national state of emergency for COVID-19 on March 13, 2020.

The numbers have also risen dramatically in our State since I declared a public health emergency. As of April 5, 2020, the New Mexico Department of Health reported at least 624 confirmed cases of COVID-19 in New Mexico and at least 12 related deaths. There are confirmed cases of COVID-19 in 23 of New Mexico's 33 counties. Despite proactive measures taken by the State and our citizens, these numbers are increasing at a dangerous rate and COVID-19 is expected to continue its spread in New Mexico.

Public health organizations have implemented emergency measures intended to slow the spread of COVID-19. For example, on January 20, 2020, the CDC activated its Emergency Operations Center in response to the COVID-19 outbreak. The WHO similarly declared a Public Health Emergency of International Concern shortly thereafter. Nearly all of our sister states have declared a state of emergency and implemented significant measures and deployed substantial resources to fight the spread of COVID-19.

New Mexico has taken aggressive measures to reduce the spread of COVID-19 and to mitigate its potentially devastating effects. I have been in frequent contact with federal and state agencies and officials who are coordinating their efforts and resources to fight COVID-19. Various state agencies have been at the forefront of our State's response to COVID-19, including the New Mexico Department of Health. All State agencies are undertaking efforts in response to this pandemic.

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Due to the continued spread of the COVID-19, it is necessary for all branches of State government to continue taking actions to minimize the spread of COVID-19 and to reduce its attendant physical and economic harms.

Therefore, for the reasons above, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and the laws of the State of New Mexico, hereby ORDER and DIRECT:

1. In consultation with the New Mexico Department of Health, I have determined that the statewide public health emergency proclaimed in Executive Order 2020-004 is renewed and extended through April 30, 2020.
2. All other powers invoked, directives, and orders contained in Executive Order 2020-004 remain in effect.
3. All other Executive Orders with a duration that was tied to the COVID-19 public health emergency shall continue with the same effect. This includes Executive Orders 2020-006, -007, -008, -009, -010, -011, -013, -014, -015, -016, -017, -018, -019, -020.

This Order supersedes any previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and shall remain in effect until May 1, 2020 unless renewed or until the Governor rescinds it.

ATTEST:

Maggie Toulouse Oliver

MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 6TH DAY OF APRIL 2020

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO

Michelle Lujan Grisham

MICHELLE LUJAN GRISHAM
GOVERNOR





Type of Action:

☒ Resolution☐ Ordinance☐ TIDD Resolution

Council Action and Executive Summary

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6
1st Reading:	Adopted: April 24, 2020
Drafter: Christine Rivera	Department: Legal
Program: Compliance	Line of Business: Office of City Clerk
Title:	A RESOLUTION APPROVING AN ELECTRONIC PUBLIC COMMENT POLICY FOR VIRTUAL MEETINGS DURING AN EMERGENCY.

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

To approve an electronic public comment policy.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On March 11, 2020, Governor Michelle Lujan Grisham declared a state of emergency in New Mexico, issued under Executive Order 2020-004. The New Mexico Department of Health issued a Public Health Order on March 23, 2020, with a limit on gatherings to five individuals. As such, the governing body has instituted virtual meetings. Attorney General Hector Balderas issued guidance on complying with the Open Meetings Act (OMA) concerning virtual meetings stating that "Members of the public should be afforded remote access, via live stream or other similar technology, if possible, or call-in number for listening by phone." The City of Las Cruces currently does not have a policy regarding public comment in times of emergencies when the public body is required to meet virtually. Although the OMA does not specify the requirement for public comment, the governing body has asked that the public be able to participate. Robert's Rules of Order states that the Chair must recognize any member or participant who seeks the floor and as such the recommendation is for the public to contact the mayor or city clerk via email prior to the meeting with comments, questions and/or concerns.

ANNUAL BUDGET APPROVAL:

☐ Yes☐ No☒ N/A

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes☐ No☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and establish the electronic public comment policy.
2. Vote "No"; this will not approve the Resolution nor establish the electronic public comment policy.
3. Vote to "Amend"; this would modify the Resolution based on City Council's direction.
4. Vote to "Table"; this would postpone the Resolution and City Council would need to provide direction to staff.

RESOLUTION

A RESOLUTION APPROVING AN ELECTRONIC PUBLIC COMMENT POLICY FOR VIRTUAL MEETINGS DURING AN EMERGENCY.

The City Council is informed that:

WHEREAS, Governor Michelle Lujan Grisham declared a state of emergency in New Mexico on March 11, 2020; and

WHEREAS, the New Mexico Department of Health issued a Public Health Order on March 23, 2020 regarding mass gatherings; and

WHEREAS, the Las Cruces City Council has initiated virtual meetings in conformance with the Public Health Order; and

WHEREAS, the City of Las Cruces does not have a policy regarding public comment for virtual meetings; and

WHEREAS, the Open Meetings Act does not require public comment, the governing body will enable public comment as current technology allows under the current limitations.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT all public comment be submitted to the mayor or city clerk via email before the said city council meeting.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS