

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
NOVEMBER 1, 2017
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:30 p.m.

INVOCATION/PLEDGE

Lt. Jeff Breazeale, Yuma County Coordinator of the Salvation Army, gave the invocation. **Charles Flynn**, Executive Director of the Yuma Crossing National Heritage Area (YCNHA), led the City Council in the Pledge of Allegiance.

ROLL CALL

Councilmembers Present: Shelton, Miller, Knight, Thomas, Craft, and Mayor Nicholls
Councilmembers Absent: Wright
Staffmembers Present: City Administrator, Gregory K. Wilkinson
Executive Director of YCNHA, Charles Flynn
Various Department Heads or their representative
City Attorney, Richard W. Files
City Clerk, Lynda L. Bushong

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms for agenda related items from members of the audience.

PRESENTATIONS

Public Safety Personnel Retirement System

Nick Ponder, Pension Policy Analyst for the Arizona League of Cities and Towns (League), presented a history of the Public Safety Personnel Retirement System (PSPRS) and an update regarding the pension reform as follows:

- PSPRS was established in 1968 to pool investments, simplify the transfer of employees, and ensure stable benefits across different employers.
 - Each city contributes to PSPRS in a minimum of three ways: 1) fire department, 2) police department or sheriff's office, and 3) Department of Public Safety
- Reforms in 2011 and 2016 created three tiers of benefits by enrollment date
 - Tier 1: 1968 through 12/31/2011 (7.65% employee rate)
 - Tier 2: 1/1/2012 through 6/30/17 (11.65% employee rate)
 - Tier 3: 7/1/17 forward (50/50 shared contribution)
- In 1968 the legislature passed a Permanent Benefit Increase (PBI) after successful union negotiations to address retirees who could not sustain themselves on their current benefit

- Half of earnings in excess of 9% are paid to retirees and the remaining half is kept in the plan
- Annual payment cap required anything exceeding the cap to be rolled into the subsequent year, which PSPRS was required to pay out the following year regardless of how the market was performing
- The Deferred Retirement Option Plan (DROP) was passed in 2000 and allowed participants to enter into an agreement to stop their pension calculation for a period of up to five years and pool that money to be paid as a lump sum at the end of their agreement
 - The issues are that employers are not required to pay contributions once a participant enters DROP, creating a portion of the pension that is unfunded, and the plan is guaranteeing a high rate of return on DROP balances
- There has been significant public debate regarding what is an acceptable funded status for pension plans, with the number discussed ranging from 70% to 100%
 - Private sector pensions and public sector pensions will differ because for a corporation there are no guaranteed revenues, while for a city there will be some sort of revenue though one might not know how much it is going to be
 - Must also consider the benefit structure, liabilities, and anticipated liabilities and stress test the plan to figure out what will happen if there are multiple economic downturns within a 10-year period
- Several factors contributed to the current situation:
 - There were individual quarters with economic downturns, but there was no prolonged recession from 1986 to 2001 when the tech bubble burst and the subsequent cataclysmic market correction in 2008-2009
 - The PBI, while established with good intentions, was hands-down the biggest culprit
 - Actuarial calculations did not anticipate the PBI, used outdated life expectancy tables, and used a 9% assumed rate of return until early 2000
 - DROP
 - Failure of the 2011 reform due to lawsuits resulted in a much higher contribution rate because the plan was underfunded for three years during the lawsuit
 - While PSPRS also indicates a demographic shift is a factor, the previous five factors actually caused that demographic shift
- 2011 - First round of pension reform
 - Senate Bill 1609
 - Increase contribution rates
 - Reduce PBI formula for active and retired members
 - Restrict Service Purchases
 - Cap employer contribution rates for the Elected Officials Retirement Plan
 - Establish Tier 2 requiring employees to pay higher contribution rates and remain in the system longer before retirement
 - Each of these reforms, with the exception of the creation of Tier 2, was struck down by a court ruling which determined they could only be applied prospectively
- The League developed a task force to figure out how to better structure PSPRS, which came up with the following recommendations:
 - Defined Benefit Plan
 - Free from legal challenge
 - New statewide system (addition of Tier 3)
 - Plan elements

- Full pooling
 - Equal cost sharing
 - Circumstantial pension increases
 - Defined contribution supplement for those without Social Security
- Different governance structure
 - Change the makeup of the Board of Trustees
 - Address concerns regarding local Disability Boards
- 2016 - Second round of pension reform
 - Senate Bill 1428 created a Tier 3 for public safety members
 - Requires employees to share equally in the cost of the pension
 - Greater age requirement before becoming eligible
 - Different graded multiplier structure for the Defined Benefit plan
 - Caps contributions on first \$110,000 of salary
 - Employee option to join Defined Benefit or Defined Contribution plan
 - Parameters placed on when a Cost of Living Adjustment (COLA) can be paid
 - Requires PSPRS to study risk pooling and consolidating local boards
 - Changes the makeup of the PSPRS Board
 - Proposition 124
 - Struck the PBI from the statute and established a COLA to be capped at 2%
 - Voter approved with more than 70% public support
- 2017 Legislative Session
 - Senate Bill 1063
 - Created a pooled system for employers with 250 or fewer public safety employees
 - Employers with 251 or more will be in a single employer plan
 - House Bill 2485
 - Grants employers the permission to switch from a 20-year to a 30-year amortization period
 - Alters the transfer statute to ensure that a new employer does not pay for liabilities accrued at a previous employer
- How does the reform measure up to the League Task Force suggestions?
 - Defined Benefit Plan – yes, with the option to join a Defined Contribution plan
 - Free from legal challenge – yes, because it is prospective only
 - New statewide system – yes, Tier 3
 - Plan elements
 - Full pooling – partial; pooled for 250 employees or fewer
 - Equal cost sharing – yes, 50/50 employee and employer
 - Circumstantial pension increases – yes, depending on 70% funding
 - Defined contribution supplement for those without Social Security – yes, 3% employer and employee contribution
 - Different governance structure
 - Board of Trustees – partial, with four labor representatives, four taxpayer representatives, and one recommended by the Advisory Council
 - Disability Boards – to be determined
- Alternative Investments
 - Recent attention has been paid to the \$170 million in fees paid by PSPRS in their alternative investment portfolio

- Traditionally plans invested 60% in stocks and 40% in fixed income, but low interest rates have caused plans to turn to alternatives such as private equity, private debt, hedge funds, real estate, and commodities
- Comparing three-year returns for PSPRS in the U.S. equity portfolio vs. their private equity portfolio, private equity outperforms U.S. equity by 3-5%
- In order to determine if these fees are reasonable, they should be compared to the fees paid by other plans of like size and the returns provided need to be taken into consideration
- Because the fees are taken from the earnings of the equity investment, they do not represent money that would otherwise have been in the plan

Ponder also mentioned that there has been a promise to progressively scale down the sweeping of Highway User Revenue Funds until it is eliminated completely. Since 2001, \$347 million has been swept from Arizona's cities and towns, and \$1.1 billion from the counties and state highways.

Knight asked if the PSPRS liability would remain with the City if one of our police officers or firemen transferred to another municipality. **Ponder** confirmed that whatever liabilities were created at an employer would stay there. He added that cities that have more public safety employees coming in than going out will actually save money, but the opposite is also true.

Thomas noted that the ad-hoc committee estimated it would take 22 years for the PSPRS to break even and asked if this was consistent with Ponder's predictions. **Ponder** answered that the simplest assessment is to determine the amortization period, which for the City is 20 years. However, one of the best practices that is being advised includes paying annual contributions up front if possible to take advantage of excess returns. **Thomas** asked why the State, having already anticipated what each employer should pay every year, does not allow cities to invest their own money for PSPRS. **Ponder** replied that each employer who participates in PSPRS has signed an irrevocable agreement that they will forever remain a part of PSPRS. Additionally, each city that chose to invest their own money would lose the advantage of economies of scale with regard to investment fees. **Thomas** asked if the City was required to join PSPRS or if it was voluntary. **Ponder** stated that it was voluntary.

Shelton asked if the State considered putting the issues with PSPRS in the hands a credible think tank such as the Morrison Institute of Public Police at Arizona State University and whether the League's plan is the path to solubility. **Ponder** expressed doubt that having the Morrison Institute as the only entity to make recommendations would have borne any fruit simply because labor has a significant say in the process. Additionally, the League would need to have a seat at the table because they are trying to represent the city, town, and taxpayer perspectives. The changes that are being suggested will put PSPRS in a far better position than it was before and the plan should pull itself out of its current situation in due time.

Miller asked what Ponder considers 'due time'. **Ponder** explained that it will vary from employer to employer. Some employers will choose to push their amortization out to 30 years, which is passing the liability out to the subsequent generation and is not ideal. Assuming the City pays what it is required and PSPRS makes its 7.4% rate of return, the City will be paid off in 20 years. **Miller** opined that the City should consider paying its contribution in advance and asked if Ponder had any additional suggestions as to what the City could do to get ahead. **Ponder** shared some of the options that other municipalities have put in place:

- The City of Prescott passed a 0.75% sales tax increase and will be paying \$5 million up-front from reserves

- The City of Globe passed a 0.3% sales tax increase
- The City of Flagstaff passed a one-cent sales tax to fund their roads
- The Town of Queen Creek passed a pension policy stating that they will never allow their unfunded liability to exceed a certain dollar amount

Ponder recommended that the City be vocal to all legislators to help enact change that will improve the position of Arizona's cities and towns.

Mayor Nicholls asked if the new actuarial tables will be implemented this year. **Ponder** stated that they should be released sometime this month and will include anticipated contributions starting July 1, 2018. **Mayor Nicholls** asked if there is now a management process by which the tables will be regularly updated. **Ponder** replied that the Governmental Accounting Standards Board recommends that plans complete an experience study every five years. The League could require PSPRS to do it more frequently, but typically it is not expected that experience will change drastically within a five-year period. **Mayor Nicholls** asked if this year's return is at 12.6%. **Ponder** confirmed that it is right around 12%. **Mayor Nicholls** asked if **Ponder** could explain smoothing. **Ponder** explained that smoothing helps to avoid volatility in contribution rates by calculating those rates based on the gains or losses of the prior seven years. **Mayor Nicholls** noted that the investment approach seems to be extremely conservative and asked if that is the Board's directive. **Ponder** confirmed that it is the Board's directive. The Board takes the recommendations from the Chief Financial Officer of PSPRS and makes their own recommendations.

Craft stated that cities do not have 22 years to wait for PSPRS to fix itself, and the 30-year amortization is assuming that the unfunded liabilities will not change. Additionally, the investment fees being paid are not acceptable when returns are not even 1%. **Ponder** stated that almost all plans are getting into private equity now due to its revenue earning potential, though some are considering handling their investments 'in-house' to save the \$100 million in fees. Obviously this was not the case in 2016 when most pension plans were in the range of 1% to -1%.

Thomas expressed concern that those cities who pay early are padding the coffers for someone else rather than looking out for their own public safety personnel. **Ponder** stated that in theory no city should pay for the underfunded portion of any other city. However, if a city files for bankruptcy a federal bankruptcy judge will not be constrained by the laws of the State of Arizona, and it has not been litigated whether PSPRS would be considered a State plan or a city plan in that situation.

Mayor Nicholls stated that the City did consider paying its contribution in advance. The decision not to do so was due to cash flow issues at that time, and that option will likely be considered again. He noted that it has been pointed out no city has yet to fail to make a PSPRS payment, but pointed out that a city literally cannot fail to make a payment because all taxes are collected through the State and there is no ability to not give a payment to the State.

Renaming of the Quartermaster Depot State Park

Flynn presented the following information related to the Quartermaster Depot State Park (QMD) and the Yuma Territorial Prison, focusing on the past, present and future of the of the Colorado River which was the consideration behind renaming the QMD to the Colorado River State Historic Park.

Background

- In 2010, Arizona State Parks planned to close both state parks due to drastic budget reductions
- City, Heritage, and the community rallied to save the parks. City leased the parks from the state and the Heritage Area operated the parks
- Since 2010, Yuma Territorial Prison has doubled gross revenues and is operationally self-sufficient. No city, state or federal funding required.
- In 2016, State and City signed a 15-year agreement that maintains local management.

History of Quartermaster Depot Site

- Served as Military Supply Depot from the 1850's to the 1880s
- Served as HQ for Reclamation from early 1900's to the 1950's
- Served as Operations Center for Yuma County Water Users until the 1980's
- Commitment to Preservation and History
- State Park 1997-present

Joint Venture

- Yuma Crossing National Heritage Area (YCNHA), the City of Yuma (City) and Yuma Visitors Bureau (YVB)
- Maintaining a \$250,000 operating budget
- The City committed \$150,000 annually
- YCNHA committed \$50,000 of NPS funds and raised another \$25,000 in revenues
- YVB relocated ins Arizona Welcome Center to QMD, pays rent, and provides staff for 'visitor contact'
- YCNHA committed staff to manage museums, restore historic properties and market the parks

New Master Plan

- Long-Term Plan is to build a new building called "The Center for the Future of the Colorado River". It would explain the challenges we all face– and will make sure to tell Yuma's story! Private foundation funding will be researched for this project.
- Medium-Term plan is to build a structural abstraction of a steamboat. Visible from the Interstate and help explain what has become of the Colorado River
- Short-Term is to create new exhibits to start telling the story of the river
- Common focus throughout the plan is to create a compelling interpretation of the parks original connection to the Colorado River

I. MOTION CONSENT AGENDA

Motion (Knight/Craft): To approve the Motion Consent Agenda as recommended. Voice vote: **approved** 6-0.

A. Approval of minutes of the following City Council meetings:

Regular Council Meeting	March 15, 2017
Regular Council Worksession	August 15, 2017

Regular Council Worksession September 5, 2017

B. Approval of Staff Recommendations:

1. Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (City Atty)
2. Approve a Special Event Liquor License application submitted by Kay Trujillo on behalf of the Foothills Optimist Club for a wine tasting event. The event will take place at the Sanguinetti House Museum and Gardens, 240 S. Madison Avenue, on November 18, 2017, from 6:30 p.m. to 8:30 p.m. (SP17-33) (Admin/Clerk)
3. Approve a Special Event Liquor License application submitted by William Bowles on behalf of the German/American Friendship Club of the Desert Southwest for German Fest on Madison. The event will take place on Madison Avenue between 1st Street and 3rd Street on Saturday, January 20, 2018, from 10:00 a.m. to 10:00 p.m. (SP18-01) (Admin/Clerk)
4. Approve a Special Event Liquor License application submitted by Barry Olsen on behalf of the Caballeros de Yuma for the Colorado River Crossing Balloon Festival. The event will take place at Desert Sun Stadium, 1280 W. Desert Sun Drive, on November 18, 2017, from 11:00 a.m. to 9:00 p.m. (SP17-34) (Admin/Clerk)
5. Authorize the City Administrator to execute three grant agreements with the Arizona Governor's Office of Highway Safety for highway safety projects in accordance with Arizona's Federal Fiscal Year 2018-2019 Highway Safety Plan (Police/Patrol)
6. Authorize the City Administrator to execute four agreements totaling \$480,000 in accordance with the 2017 Annual Action Plan (DCD/Neighborhood Svc)
7. Authorize the City Administrator to execute an intergovernmental agreement to formalize a bilateral relationship to promote growth and expand economic opportunities in the regions of Yuma County, San Luis Rio Colorado, Sonora, Mexico and regions within Baja California Norte, Mexico bordering San Luis Rio Colorado and Yuma County (Admin/Ec Dev)

II. RESOLUTION CONSENT AGENDA

Mayor Nicholls declared a potential conflict of interest with regard to the adoption of Resolution R2017-029, turned the meeting over to Deputy Mayor Knight, and left the dais.

Motion (Thomas/Craft): To adopt Resolution R2017-029 as recommended.

At the request of Deputy Mayor Knight, **Bushong** displayed the following title:

Resolution R2017-029

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Economic Development and Deferral Agreement between the City of Yuma and MPW Industrial Water Services, Inc. of Hebron, Ohio and Affiliates (in support of the expansion of MPW Industrial Services from Hebron, Ohio, to Yuma) (Admin/Ec Dev)

Roll call vote: **adopted** 5-0-1, Mayor Nicholls abstaining due to potential conflict of interest.

Mayor Nicholls returned to the dais.

III. ADOPTION OF ORDINANCES CONSENT AGENDA – There were no ordinances scheduled for adoption.

IV. INTRODUCTION OF ORDINANCES

At the request of Mayor Nicholls, **Bushong** displayed the following titles:

Ordinance O2017-042

An ordinance of the City Council of the City of Yuma, Arizona, declaring as surplus for use by the City certain previously dedicated right-of-way, and vacating title to the surplus right-of-way to the abutting property owners as tenants-in-common upon the recording of a quit claim deed (property located in the vicinity of 32nd Street and Avenue 5 ½ E) (Eng)

Ordinance O2017-043

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, rezoning certain property located in the Low Density Residential (R-1-6) District to the Transitional (TR) District and amending the zoning map to conform with the rezoning (22,500 square feet of property located 70 feet southeast of the intersection of 5th Avenue and 14th Place) (ZONE-18764-2017) (DCD)

Ordinance O2017-044

An ordinance of the City Council of the City of Yuma, Arizona, declaring as surplus for use by the City a portion of the south side of North Frontage Road at East 32nd Street, west of Avenue 8E, and authorizing the granting of a utility easement to Arizona Public Service on the surplus property (property located in the vicinity of Avenue 8E and 32nd Street) (Atty)

Ordinance O2017-045

An ordinance of the City Council of the City of Yuma, Arizona, declaring as surplus for use by the City certain real property, hereafter described, and authorizing sale of the surplus property (property located at 1350 W. 12th Street) (Atty)

V. PUBLIC HEARINGS – There were no public hearings scheduled at this time.

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms from members of the audience interested in speaking at the Call to the Public.

VI. MARKETING AGREEMENT WITH SERVICE LINE WARRANTIES OF AMERICA

Mayor Nicholls noted that this agenda item is regarding the letter sent out to City residents by Service Line Warranties of America pursuant to a contract approved by City Council in May allowing the use of the City logo for the letter. However, the letter that was sent out appears as if he authored it himself and has caused significant confusion and concern. He requested a discussion regarding the execution of the contract thus far and if City Council desires to reconsider the contract.

Shelton remarked that having the City logo included on the letter makes it appear as if it came from the City. He agreed that City Council should reconsider the contract. **Knight** stated that it appears the company got a little over aggressive with their marketing and also agreed the contract should be revisited.

Mayor Nicholls asked what exit provisions are in the contract. **Files** suggested recessing to Executive Session to discuss the matter. **Shelton** opined that the discussion should take place openly, not in Executive Session.

Motion (Thomas/Knight): To recess to Executive Session to discuss agenda item VI under A.R.S. § 38-431.03 Section A (3). Voice vote: **approved** 5-1, Shelton voting nay. The meeting is recessed at 7:21 p.m.

Mayor Nicholls reconvened the meeting at 7:30 p.m. with the above-noted parties present.

Motion (Nicholls/Knight): To direct the City Attorney and City Administrator to negotiate an exit on the contract with Service Line Warranties of America. Voice vote: **approved** 6-0.

VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Motion (Thomas/Craft): To appoint George M. Edwards to an unexpired term on the Clean and Beautiful Commission with a term expiration of December 31, 2020. Voice vote: **approved** 6-0.

Thomas, Miller, Knight, Mayor Nicolls, and **Shelton** reported on events and meetings they have attended during the last two weeks and upcoming events of note.

Knight requested a discussion on proposed changes to the City Code regarding parking on residential streets. **Wilkinson** stated that City staff has been working on the issue and should have something ready for City Council's consideration in about 30 days. **Knight** requested an item on the next agenda to temporarily reduce parking fines until the City has time to implement changes to the City Code and a permanent fee structure. **Wilkinson** stated that the City's parking fines are not out of line with other cities throughout the state, and the amount the City receives from the fines is a miniscule part of the total fine amount. **Mayor Nicholls** asked if an ordinance would be required to modify parking fines. **Files** affirmed that this is his

opinion. **Wilkinson** stated that he would prepare a presentation regarding fine comparisons for the November 14th Worksession.

Shelton expressed concern regarding the construction taking place on Arizona Avenue and the confusion that has been reported. He requested a discussion regarding what took place and whether that contractor may need further direction in the future. **Mayor Nicholls** stated that while he would not be comfortable addressing the issue in terms of a specific contractor, City Council could discuss traffic control when it comes to projects and if any changes are needed to make sure the public is safe and informed. **Shelton** suggested an emphasis on communication to the public and local businesses. **Wilkinson** stated he would add this item to one of the next two Worksessions.

VIII. SUMMARY OF CURRENT EVENTS

Wilkinson provided an update on the USNS Yuma, which was pulled out of sea trials and made an unscheduled deployment to Honduras and Guatemala where they loaded up 390 tons of drilling equipment and 88 sailors and returned them to the Gulf port. On their return trip, they rescued seven U.S. citizens from a disabled boat about 20 miles north of Cuba.

Wilkinson reported the following events:

- November 4th and 5th – Border Madness Girl’s Fast Pitch Tournament at the PAAC
- November 4th – Children’s Festival of the Arts on Main Street
- November 7th – City of Yuma General Election

Wilkinson noted that as of October 31st there were 39,617 active registered voters and 25,872 early ballots requested, of which 4,894 have been received by Yuma County.

IX. CALL TO THE PUBLIC - There were no speakers at this time.

X. EXECUTIVE SESSION/ADJOURNMENT

Motion (Knight/Thomas): To adjourn the meeting to Executive Session: Voice vote: **approved** 6-0. The meeting adjourned at 7:50 p.m.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor