

**MINUTES**  
**REGULAR WORKSESSION**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS - YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**July 31, 2018**  
**6:00 p.m.**

**CALL TO ORDER**

**Mayor Nicholls** called the Regular City Council Worksession to order at 6:00 p.m.

Councilmembers Present:     Shelton, Watts, Thomas, Knight, McClendon, Miller, and Mayor Nicholls  
Councilmembers Absent:     None  
Staffmembers Present:     City Administrator, Gregory K. Wilkinson  
   Various department heads or their representatives  
   City Attorney, Richard W. Files  
   City Clerk, Lynda Bushong

**I.     REGULAR CITY COUNCIL MEETING AGENDA OF AUGUST 1, 2018**

Resolution Consent Agenda R2018-021 – Real Property Exchange, Settlement and Redevelopment Agreement: PMG Partnership, LLC (Approve the terms of the Real Property Exchange, Settlement and Redevelopment Agreement and authorize the City Administrator to execute the Agreement and all documents attached as Exhibits to the Agreement on behalf of the City of Yuma.)

**Mayor Nicholls** declared a potential conflict of interest on this item due to his company is working on a project adjacent to this property.

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Resolution Consent Agenda R2018-018 – The formation of a Citizen’s Oversight Committee to establish City data access policies to ensure privacy of our residents (Authorize and direct the City Administrator to form a Citizen Oversight Committee and establish City policies and procedures for access and use of City data from the anyComm nodes.)

Discussion:

**Knight** asked what anyComm’s policy is regarding the release of data to a third party. **Wilkinson** stated that anyComm will only release data requested with the City’s permission. AnyComm will then charge a retrieval fee to the requester and release the records. **Knight** questioned the last sentence of section five which states, only the City will be allowed direct access to live or recorded City data, except as may be required by the courts. **Wilkinson** responded that is correct; the courts may order the release of data, which is how requests would need to be filed. AnyComm is a private company and is not subject to the same public records laws as the City.

**Shelton** asked the following questions: 1) when will the Citizens Committee be established; 2) how does a citizen become a member of the committee; and 3) how was the term established. **Wilkinson** answered that 1) the committee will be selected by City Council from a list of applicants; 2) interested parties can fill

out an application at the City Clerk's office located at City Hall; and 3) the term will be standard for the City's boards and commission.

**Thomas** asked if any criteria was set regarding a selection process. **Wilkinson** responded that they must be a resident of the City of Yuma, but no other criteria has been established. He stated diversity is what makes a good committee, so people with diverse backgrounds will be sought.

**Mayor Nicholls** questioned the exchange of the word 'regulations' with the word 'policy' from the initial version, and opined by removing 'policies' it implies they don't have as much importance. **Wilkinson** suggested inserting the word 'policy' back into the resolution for clarification. **Mayor Nicholls** agreed that making the change in Sections 3 and 4 would help validate it is the policies that govern. **Wilkinson** stated a motion would be made on the dais at tomorrow night's City Council meeting.

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Resolution Consent Agenda R2018-020 – Call of Election: City of Yuma 2018 Special Election (Call a special election on November 6, 2018, to submit to those persons qualified to vote in the City of Yuma the question of increasing the Transaction Privilege Tax levy by one-half of one percent (0.5%) to provide funding solely dedicated to fixing potholes, improving existing roads and replacing asphalt in the City of Yuma.)

Discussion:

**Shelton** asked if approved how many miles of street the Transaction Privilege Tax Levy increase would repair in a given year and when would road improvements start. **Wilkinson** stated the intent would be to start right away, with consideration given to the City budget. He informed City Council approximately 20-miles of roads including various depths would be the estimated repaired distance.

**Knight** noted that the funding is solely dedicated to fixing potholes, improving existing roads and replacing asphalt. He questioned if the 0.5% tax increase profit would be placed into a specific road account. **Wilkinson** replied the City would set up a separate enterprise fund account that would be for the purpose stated by the citizens and strictly to fixing the roads.

**Mayor Nicholls** asked if the intention is to maintain the City's current \$3 million dollar per year spending, while using the revenue from the new tax to help gain on the maintenance costs the City is behind on. **Wilkinson** confirmed that is correct. The City has projected approximately \$3.7 million dollars a year for the next several years after the current year, and then the money would be added until there is a total of \$13.7 million per year. **Thomas** asked if the state can touch these funds. **Wilkinson** stated these funds would be local and not subject to state sweeps.

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Adoption of Ordinances Consent Agenda O2018-036 – Acquisition of Property: Acquire a portion of PMG property at 16<sup>th</sup> Street and 4<sup>th</sup> Avenue (Authorize the acquisition of real property containing approximately 254 square feet of land for the purpose of redeveloping the northeast corner of 16<sup>th</sup> Street and 4<sup>th</sup> Avenue intersection as well as circulation and access easements.)

**Mayor Nicholls** stated he will recuse himself on this item if any discussion is needed due to his company is working on an adjacent project to this property.

Adoption of Ordinances Consent Agenda O2018-019 – Amendment to Yuma City Code: Title 9, Chapter 92, “Telecommunications” (Amend Yuma City Code, Title 9, Chapter 92, to (i) comply with changes to state laws and regulations regarding use of the City’s rights-of-ways by communications and telecommunications providers, and (ii) to maintain and protect the public safety and welfare through the City’s police and land use powers.)

**Thomas** questioned the reasoning in changing both ordinances. **Wilkinson** stated the changes are updates to the City Code in order to comply with new State laws.

Adoption of Ordinances Consent Agenda O2018-014 – Zoning Code Text Amendment: Title 15, Chapter 154, Article 19 “Personal Wireless Communications” (Amend Yuma City Code, Title 15, Chapter 154, Article 19 to (i) comply with changes to federal and state laws and regulations regarding use of the City’s rights-of-ways and facilities by wireless communications providers for the providers’ installation, operation, and maintenance of their personal wireless communications facilities, and (ii) maintain and protect the public safety and welfare through the City’s police and land use powers.)

Discussion:

**Thomas** questioned Section 154.19-11 of the Yuma City Code, referenced in Ordinance 2018-014, referring to shot clocks and asked what the time limits were. **Wilkinson** explained that because certain entities were taking an excessive amount of time in approving an ordinance the federal government set a 90-day shot clock to act.

**Shelton** asked if this zoning code text amendment will have an impact, either intended or unintended, on hand radio operators. **Wilkinson** stated no because hand radio operators and cellular towers are two separate frequencies. **Shelton** asked if it will have an impact on any other individual personal communication. **Wilkinson** informed the frequencies are controlled by the Federal Communications Commission (FCC) and we have no local control over frequencies. Each cellular company goes through the FCC to license their frequencies for an area, it would not interfere with any legal station here in Yuma.

**Mayor Nicholls** questioned if the small cell and Wi-Fi provisions in this zoning text amendment apply to the anyComm product. **Wilkinson** stated no, the anyComm nodes are Wi-Fi nodes, they are not telecommunication nodes under this definition. **Mayor Nicholls** reassured that the nodes do have cellphone capability, but are not categorized as a small cell. **Wilkinson** confirmed that information to be correct.

## **II. EXECUTIVE SESSION**

**Motion** (Thomas/Knight): To adjourn the meeting into Executive Session. Voice vote: **approved** 7-0. The meeting adjourned at 6:33 p.m.

APPROVED:

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Lynda L. Bushong, City Clerk

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Douglas J. Nicholls, Mayor