

**MINUTES**  
**SPECIAL CITY COUNCIL MEETING**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS, YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**JUNE 19, 2020**  
**2:00 p.m.**

**CALL TO ORDER**

**Mayor Nicholls** called the Special City Council meeting to order at 2:01 p.m.

Councilmembers Present:	Shelton, Morris, Watts, Knight, McClendon, Shoop, and Mayor Nicholls
Councilmembers Absent:	None
Staffmembers Present:	City Administrator, Philip A. Rodriguez Chief of Police, Susan Smith City Attorney, Richard W. Files City Clerk, Lynda L. Bushong

**I. FACE COVERINGS**

**Mayor Nicholls** stated that this Special Meeting was called in response to Executive Order 2020-40 (EO), which was implemented by Governor Ducey on Wednesday, June 17, 2020. Because this proclamation has the potential to impact people's daily lives, having the City Council convene for a collective debate makes the best sense. The EO from the Governor places tighter restrictions on businesses but has been left open for local governing bodies to decide on some of the issues to mandate, specifically the use of masks in public. City Council understands that this is a highly charged debate and has received many comments through text, email, phone and social media. **Mayor Nicholls** added that the past months have shown many changes. At first the community worked together to move forward; then it became contentious and it seems that hate has taken over more than the virus has. Yuma needs to come together as a community on issues such as this, have a respectful debate and thoughtful deliberation, and then respectfully walk out the door and continue to be neighbors and not just survivors.

**Mayor Nicholls** noted that the meeting will begin with City Attorney Richard Files providing a briefing on the latest EO. Next Dr. Robert Trenchel, the President and CEO of Yuma Regional Medical Center (YRMC), will present the hospital's perspective and the perspective of medical providers. The last presentation will be from Police Chief Susan Smith, who will provide information on potential law enforcement impacts that need to be considered. At the end of the meeting, City Council will need to give direction to do one of three actions in response to the EO:

1. Take no action
2. Issue a proclamation strongly encouraging the use of masks and other social distancing measures
3. Mandate the use of masks in the public arena

**Mayor Nicholls** concluded by stating that City Council's action today will become a modification of the City's current emergency proclamation.

**Files** provided a briefing on Governor Ducey's latest EO as follows:

- The thrust of the EO is found in paragraphs three and four; it states that “businesses shall assist in efforts to contain the spread of the virus by updating and enforcing written policies in accordance with EO 2020-36 that adopt guidance from the Centers for Disease Control and Prevention (CDC), Department of Labor, Occupational Safety and Health Administration, and Arizona Department of Health Services to limit and mitigate the spread of COVID-19. This provision shall be enforced by law enforcement and regulatory agencies having jurisdiction over the business.”
- Two different guidelines were released from the Governor’s Office and the AZ Department of Health Services, one for businesses and one for restaurants and bars related to dining services
- The EO regulates activities inside of businesses, as it speaks to the requirements for businesses to implement and enforce a policy for the use of face coverings by employees and customers when feasible and the use of proper protective equipment and physical distancing at a minimum of six feet
- The EO also asserts that if a governing body has not adopted an ordinance requiring the wearing of masks in restaurants, then there is no requirement for customers to do so
- Unlike the past EO’s issued by the Governor, this one allows municipalities to adopt a face covering policy for areas such as parks and open spaces

Discussion:

- ‘Business’ is defined as any profit or nonprofit institution, profession or entity that operates in the state of Arizona and serves the public (**Morris/Files**)
- The emergency proclamation can mirror the EO regarding internal businesses space, but cannot add additional restrictions (**Mayor Nicholls/Watts/Files**)
- The EO states that businesses must provide necessary protective equipment, but does not specify whether that is for employees only or if it includes the general public (**Shoop/Files**)
- Requiring businesses to provide masks for the general public could be detrimental to their ability to survive and recover from the economic impact of the pandemic (**Mayor Nicholls/Files**)
- Masks are available for purchase at many retailers, and people are able to use handkerchiefs or other face coverings in lieu of a mask (**Watts**)
- The emergency proclamation would essentially cover all areas in between homes and businesses, while the EO addresses what must take place within a business (**McClendon/Files**)

**Dr. Trenchel** presented the following information regarding the COVID pandemic’s impact at YRMC:

- The number of COVID patients has increased significantly over the course of the last two weeks; more than half of YRMC’s patients are COVID patients
  - Of the approximately 250 patients in the hospital at this time, about 135 are COVID patients
  - In the 42-bed Intensive Care Unit (ICU), 19 of the 21 patients are COVID patients and all are on ventilators
- Hospitals across Arizona are at capacity
  - The only hospital currently accepting COVID patients through the Surge Line is Honor Health in Phoenix
- YRMC has about 30 more beds available before it reaches critical capacity
  - This could be stretched a bit by bringing in additional nurses from other departments that may not necessarily have ICU skills and pairing them with an ICU-trained nurse
  - This ‘team nursing’ system is being utilized throughout Arizona because of the strain on hospital capacity and healthcare workers

**Dr. Trenchel** stated that while he does not personally like wearing a face covering, he believes a mandate requiring face coverings is necessary at this time.

#### Discussion

- The virus does not live very long on inanimate objects such as masks; cloth masks can be reused safely, though they should be cleaned regularly (**Shoop/Trenchel**)
- YRMC is required by law to provide care for anyone who comes to the hospital, and capacity is still available for victims of accidents or those who suffer from other health conditions (**Shelton/Trenchel**)
- While Continuous Positive Airway Pressure (CPAP) machines can be used when a ventilator is not available or when it cannot otherwise be used, YRMC has not used CPAP machines on any COVID patients (**Shelton/Trenchel**)
- YRMC is in good shape from a Personal Protective Equipment (PPE) perspective due to having a sufficient pandemic supply and by obtaining additional PPE through the hospital's supply chain (**Shelton/Trenchel**)
- Convalescent plasma therapy has been utilized on COVID patients at YRMC through a research protocol at the Yuma Cancer Center; over 100 treatments have been given at this time and patients have responded well (**Watts/Trenchel**)
- YRMC has a three-tier nursing plan and is currently on Tier 3, which allows nurses to be brought in from other areas of the hospital to work in the ICU or at the patient's bedside; seasonal or agency nurses are also being utilized to expand nursing care (**Watts/Trenchel**)
- YRMC has never had a nursing hiring freeze for any reason (**Watts/Trenchel**)
- Information about residency or citizenship is not specifically tracked by the hospital; there has been an average of about two ambulance runs per day from the border, which is not an increase in activity from prior to the COVID pandemic (**Morris/Trenchel**)
- A great many of the individuals who are tested provide post office boxes rather than home addresses, so it is difficult to determine residency or citizenship based on address (**Morris/Trenchel**)
- There is no financial benefit for YRMC to list COVID as the cause of death for a patient as opposed to any other cause of death (**Shelton/Trenchel**)
- It is difficult to differentiate between COVID and influenza (flu) based on symptoms alone because of the similarity of symptoms, so testing is used to make that distinction (**Shelton/Trenchel**)
- Masking is one of the most important things that people can do to prevent the spread of COVID as it blocks droplets from being projected during breathing and speech (**Knight/Trenchel**)
- While it may be bothersome or uncomfortable to wear a mask, it is not dangerous in terms of reducing oxygen levels (**Mayor Nicholls/Trenchel**)
- Herd immunity for potentially deadly diseases is achieved through the vaccination process (**Morris/Trenchel**)
- 80% of those affected by COVID will have mild to moderate symptoms and will recover; those who are more susceptible to serious illness and death tend to be the elderly and those with other health conditions, but the young and healthy are not immune (**Morris/Trenchel**)
- Temperature readings have become a common screening measure, however some medications can mask a fever and some who are infected with COVID may not have a fever (**Shoop/Trenchel**)
- Isolating those who are vulnerable to COVID such as the ill and the elderly is more difficult than it sounds because they can be infected by their caregivers who are not able to isolate (**Watts**)

**Chief Smith** discussed the possible law enforcement impacts of a face covering mandate as follows:

- When notified of a violation, YPD will respond and educate by handing out the emergency proclamation pertaining to the wearing of a face covering
- A specific call type has been assigned to calls related to face coverings so that the number of calls coming in can be tracked
- YPD will continue to respond to calls for service as normal, so higher priority calls will be handled first

#### Discussion

- When an officer engages someone for an educational discussion, it will be logged into the computer system just as any other type of call (**Mayor Nicholls/Smith**)
- The community is encouraged to follow Governor Ducey's orders so that officers do not need to get involved and can focus on higher priority calls (**Smith**)
- Overtime is being utilized due to the additional required personnel resulting from calls for service and events that have been occurring in Yuma (**Morris/Smith**)
- It is likely that YPD will receive some calls regarding people who refuse to follow a business's face covering requirement or who refuse to leave when they are asked (**Shelton/Smith**)
- If an officer has made contact and had a discussion with someone and they still refuse to wear a mask, most likely a long form criminal complaint will be submitted to the City Prosecutor for review; there will not be a physical arrest unless there is a fight or a disturbance (**Morris/Smith**)
- It is not anticipated that the enforcement of a face covering mandate will have a negative effect on the relationship between law enforcement and the public (**Morris/Smith**)

The meeting recessed at 3:00 p.m.

**Mayor Nicholls** reconvened the meeting at 3:18 p.m. with the above-noted parties present.

**Rodriguez** stated that as of the 1:00 p.m. deadline today, the City received 903 responses from the public on this topic. 560 of the responses, or 62%, were in favor of mandating face coverings and 343, or 38%, were opposed to a face-covering mandate.

#### Discussion

**Mayor Nicholls** expressed concern that statistics show zip code 85364 (Yuma) has the highest number of total confirmed cases in Arizona, with 85350 (Somerton) having the highest number of confirmed cases per capita. He stated that he is also concerned about YPD being able to handle potential pushback from the community as a result of a mandate on top of their typical calls for service. If City Council passes this mandate, **Mayor Nicholls** stated his preference that the penalty be a civil offense rather than a criminal offense. Education is the primary way to address the issue, because issuing tickets will not change the progression of the virus. Additionally, a rating criteria will need to be developed so that the restriction can be removed when it is scientifically relevant. Finally, **Mayor Nicholls** stated that he is unhappy about having to legislate good behavior because it is not the best use of government resources. This is why City Council has been asked to debate the issue today.

**Morris** opined that mandating face coverings would be an overreach of power on the free will of the people who should be able to decide how to care for themselves and their loved ones. With freedom comes responsibility, which means that citizens should follow the recommendations of health experts and do their part to reduce the spread. However, mandating face coverings is not realistic or enforceable and Yuma

needs to work as a community to reduce the spread of the virus while maintaining free will. **Morris** concluded by stating that he does not support mandating face coverings.

**Watts** stated that as a healthcare provider she feels the City needs to mandate face coverings, not to punish people but in order to bring down the number of COVID cases. Many healthcare workers are being infected with COVID due to high exposure, which puts a strain on the healthcare system and makes it more difficult to care for vulnerable populations. Research has shown that wearing a face covering – whether it is a mask or a handkerchief – can reduce the spread of COVID. The sooner that the community reduces the number of positive cases, hospitalizations, and deaths, the sooner the economy will recover.

**Shelton** began by stating that Yuma's COVID rates have gone up not only because of increased testing, but also because of an increased rate of positive results. Businesses in the private sector have already taken responsibility by requiring that face coverings be worn by employees and patrons, and local governments are taking responsibility by issuing proclamations calling on their residents to wear face coverings. **Shelton** stressed that if a mandate is issued, it should be for a limited period of time and not on an indefinite basis.

**McClendon** noted that when restrictions were lifted people went out and tried to enjoy life the way they remembered it and the way they wish it could be. Now businesses are having to re-close, and Yumans need to stand together and do the right thing for our community by helping to slow the spread of COVID. In the tourism industry, people are questioning whether they want to get out and travel anymore and are asking what is being done to keep the public healthy. Mandating face coverings is the number one thing that the City can do to show it is doing its due diligence to keep our city and our state healthy.

**Knight** stated that Yuma's continually rising positive cases are hurting the economy, and it is clear that what is being done is not working. It is time to try something different. Face coverings have shown to help reduce the spread of the virus, and Dr. Trenchel has stated he believes it will help to bring Yuma's numbers down. **Knight** continued by stating that while he understands those who are concerned about their rights, wearing a face covering is not about protecting oneself but protecting others. If we care about others that live in our community, then wearing a face covering is a very small inconvenience.

**Motion** (Shoop): To support Mayor Nicholls in issuing a Proclamation of Emergency that, among other things, urges all persons within the city limits to wear face coverings. The motion failed for lack of a second.

**Motion** (Knight/Watts): To support Mayor Nicholls in issuing a Proclamation of Emergency requiring, among other things, all persons within the city limits to wear face coverings consistent with Governor Ducey's Executive Order 2020-40.

#### Discussion

- Current scientific findings do not support mass spraying of disinfectant through the City's streets, although the City will continue to look for any and all opportunities to make the community a safer place (**Shelton/Rodriguez**)
- The City of Somerton sprayed disinfectant in their downtown area and it does not appear to have had any effect on their numbers, as they have the highest infection rate per capita in Arizona (**Knight**)
- The CDC discourage the spraying of disinfectant on or around people due to the dangers of inhaling the disinfectant into the lungs (**Mayor Nicholls**)

- Any mandate that is issued would only cover the very narrow scope of the time from when a person leaves their residence until they arrive at a business, which may not be worth the additional response required by YPD and the infringement on peoples' rights (**Morris**)
- Someone claiming a medical exemption to wearing a face covering is not required to provide an explanation or any proof of a medical condition (**Mayor Nicholls/Smith**)
- The face covering mandate would require that individuals who are outdoors and cannot maintain a separation of six feet from others wear a face covering (**Shelton/Mayor Nicholls/Files**)
- City Hall will comply with the EO by placing a sign at the entrance notifying citizens of the requirement to wear a mask inside the building; City Hall is not currently open to the public (**Watts/Mayor Nicholls/Rodriguez**)
- It is worth giving a face covering mandate a try to see if it will help; it is possible the numbers will show that the face coverings did not matter after all and a different strategy can be tried at that time (**McClendon**)
- If the mandate is issued, statistics will be tracked and monitored daily and a criteria will be established so that the mandate can be lifted once that criteria is met (**Shelton/Mayor Nicholls**)
- In the motion, 'among other things' allows for some flexibility in issuing the mandate – for example changing the criminal penalty to a civil penalty – while still conforming to the EO (**Shoop/Mayor Nicholls/Files**)

Voice vote: **approved** 5-2, Morris and Mayor Nicholls voting nay.

## II. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Nicholls** adjourned the meeting at 4:07 p.m. No Executive Session was held.

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Lynda L. Bushong, City Clerk

APPROVED:

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Douglas J. Nicholls, Mayor