

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
DECEMBER 16, 2020
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:31 p.m.

INVOCATION/PLEDGE

Rodney Short, Deputy City Attorney, gave the invocation. **Lisa Marlin**, Director of Financial Services, led the City Council in the Pledge of Allegiance.

ROLL CALL

Councilmembers Present:	Shelton, Morris, Watts, Knight, McClendon, Shoop, and Mayor Nicholls
Councilmembers Absent:	None
Staffmembers Present:	City Administrator, Philip A. Rodriguez Arts and Culture Program Manager, Lindsay Benacka Deputy City Attorney, Rodney Short Deputy City Administrator, Jenn Reichelt Various Department Heads or their representative City Attorney, Richard 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

Recognition of Governor's Art Award for Outstanding Organization

Joseph Benesh, Executive Director of Arizona Citizens for the Arts, presented **Benacka** with the 2020 Governor's Award recognizing the Yuma Art Center as an outstanding organization. **Nicholls** thanked Benacka and her staff for the great work they do every day.

COVID-19: Governor's Executive Orders, Limitations (Preemption) and City Measures

Short presented an overview of Governor Ducey's Executive Orders regarding COVID-19 and their limitations as follows:

- Governor's Authority
 - Arizona Constitution
 - Given effect through Title 26 and Title 36 of the Arizona Revised Statutes
 - Constitutional and statutory citations in each Executive Order (E.O.)

- For COVID-19, it started with a declaration of statewide emergency on March 11, 2020 with E.O. 2020-07
- In Arizona, health departments are a state executive and/or county function, but not a function of cities, towns, or other subdivisions.
- Mayor Nicholls' signed the Proclamation of Local Emergency into effect on March 15, 2020
- Governor's Executive Orders
 - Sixty (60) in all, but about 55 directly related to COVID-19 protocols
 - Main protocols still in place and have not been rescinded as of date
 - Corresponding rules and guidance issued by the Arizona Department of Health Services (AZDHS)
 - Authority to issue E.O's exist pursuant to A.R.S. §26-303 and §36-787
- Executive Order 2020-36 issued on May 12, 2020
 - All businesses shall implement policies based on guidance from the Centers for Disease Control and Prevention (CDC), the Department of Labor (DOL), Occupational Safety and Health Administration (OSHA), and AZDHS
 - Preemption
 - E.O. 2020-36 includes the following language: "Pursuant to A.R.S. §26-307, no county, city or town may make or issue any order, rule or regulation that conflicts with or is in addition to the policy, directives or intent of this Executive Order..."
 - Still in place; not rescinded or replaced
- Executive Order 2020-40 issued on June 17, 2020
 - Orders businesses to assist in containing the spread by updating the policies implemented following E.O. 2020-36 to be consistent with guidance from the CDC, DOL, OSHA, and AZDHS
 - Includes the ability for counties, cities and towns to issue mask mandates regarding the use of face coverings in public places
 - City Council vote leading to Proclamation Amendment No. 3 – signed by Mayor Nicholls on June 19, 2020
 - Remains in place until withdrawn (has not been withdrawn at this time)
- Executive Order 2020-43 issued on June 29, 2020
 - Orders a pause in the operation of bars, gyms, fitness centers, indoor movie theatres, water parks, and tubing operations
 - Implements a local '50-person' rule
 - Order in place until July 27, 2020, unless extended
- Executive Order 2020-47 issued on July 9, 2020
 - Allows restaurants (food outlets) to re-open at less than 50% capacity and requires compliance with mitigation efforts
- Executive Order 2020-52 issued on July 23, 2020
 - Extended E.O. 2020-43 (50-person rule) until withdrawn (has not been withdrawn at this time)
- Executive Order 2020-59 issued on December 2, 2020
 - Amends, but does not completely rescind, E.O. 2020-43 and 2020-52, but charges local authorities with approval authority of events of greater than 50 attendees if adequate safety protocols (CDC/AZDHS/DOL/OSHA) are met and public gathering organizers commit to enforcement of the protocols
 - Also requires notice to AZDHS and the local county health department and a public posting of the event on the local authorities' website

- Establishes that holding an event and failing to meet adequate safety measures constitutes a public nuisance as well as any other criminal charges in A.R.S. Title 26
- Executive Order 2020-60 issued on December 2, 2020
 - Orders a temporary increase in the allowable areas that a business can operate outdoors
 - Mayor Nicholls' signed Emergency Proclamation Amendment No. 4 into effect on September 11, 2020
- City Responses
 - Arizona state law places the authority to issue orders related to public health emergencies with the Governor, but there is a sliver of authority for independent/local public health guidance reserved to the county health departments
 - The law and E.O.s prevent cities/towns and counties (in certain instances) from operating in a more strict manner or in conflict with the restrictions in E.O.s
 - Local authority in E.O. 2020-40 regarding face coverings and E.O. 2020-59 regarding events of 50 persons or more (both City implemented)

Rodriguez stated that against the legal backdrop, the City has done a great deal within its power to provide guidance, assistance, and direction in dealing with COVID-19. He provided the following summary of the measures taken by the City to combat the spread of COVID-19 in the community:

- City Measures Taken
 - No essential City services stopped during the pandemic – only redirected early on
 - All measures implemented with an overarching goal of protecting the public as well as employees and their families
 - Mayor Nicholls issued an Emergency Proclamation with four amendments:
 - March 11, 2020 – Proclamation of Emergency: recognizes COVID-19 as a potential threat and begins steps to respond
 - March 20, 2020 – Amendment No. 1: implements the Governor's E.O. 2020-09 regarding bars, movie theatres, indoor gyms and fitness clubs
 - May 6, 2020 – Amendment No. 2: rescinds Amendment No. 1 consistent with the Governor's E.O. 2020-33 and 2020-34 (reopening)
 - June 19, 2020 – Amendment No. 3: local face coverings mandated as permitted by the Governor's E.O. 2020-40
 - September 11, 2020 – Amendment No. 4: extension of premises for businesses closed or limited by the Governor's E.O.s to operate outdoors and on public property
 - Obtained a judicial protective order through the Yuma County Superior Court to allow sharing of information to protect first responders and front-line employees with notification of COVID events, when personal protective equipment (PPE) was in short supply nationally and statewide
 - Air system modifications at all City facilities including use of high-efficiency particulate air (HEPA) filters
 - Instituted a daily 'Safe Workplace' policy to implement CDC and AZDHS guidelines including supplying all departments with PPE, cleaning supplies, and thermometers
 - City employee COVID-19 blitz testing offered June 17-18 to assure public of safety while interacting with City employees
 - Families First Coronavirus Response Act (FFCRA) implemented immediately after issuance
 - Required face masks in all City facilities early on in the pandemic

- Provided, and continue to provide, limited public hours to facilities to keep safety the highest priority
- Hosted three community-wide COVID-19 testing events and provided all logistical support (May 1, June 13, and August 1)
- Provided traffic control and logistical support for additional testing events for YRMC and Sunset Health
- City Council approved a mask mandate for citizens inside City limits
- Provided remote assignments across the organization where appropriate and adopted flexible work schedules for employees with underlying health conditions/greater risk
- Moratorium on water disconnections for non-payment through December 31, 2020
- Transitioned the entire organization to accommodate remote meetings and service delivery
- Reduced staff capacity at all facilities
- Reworked all City Council activities, including reduced occupancy in Council Chambers and added an online option for citizen engagement
- Limited all field personnel to one person per vehicle
- Limited all personnel travel, including following all federal, state and CDC guidelines
- Retrofitted all front-facing department counters with Plexiglas to protect employees and the public
- Purchased computers, software, and Information Technology (IT) connectivity to facilitate reduced or staggered workforce at facilities
- Created a public awareness campaign on the importance of CDC guidelines: social distancing and 'masking up'
- City officials conducted numerous interviews on COVID-19 in the community
- Modified all Emergency Medical Services (EMS) and ambulance protocols to continue to serve the community while limiting employee exposure
- Dispatch modifications were made to assist in protecting public safety officers in all area agencies
- Residential utility assistance grants (Yuma Cares) were increased by 550% to offset job losses and workforce reductions during the pandemic
- Rental assistance grants for City residents through Community Development Block Grant (CDBG)-CV/Coronavirus Aid, Relief and Economic Security (CARES) Act
- Food distribution to the community with a private partner
- Mayor, City Administrator, Police Chief, Fire Chief and City Attorneys attended no less than 150 meetings regarding COVID-19 among local, state and federal leaders between March and December 2020
- Media, Public Affairs Team and Mayor's Office provided near constant information to the public, including at least 250 social media posts over the last 275 days related to COVID-19 across multiple pages and platforms (Facebook, Twitter, and YouTube)
- Mayor and individual Councilmembers, along with the City Administrator, held at least 12 meetings with local businesses to discuss the Governor's E.O.s in greater detail and listen to concerns
- Mayor Nicholls and the City Administrator met with Governor Ducey's office in Phoenix to discuss the COVID-19 response in Yuma, and City officials had numerous follow-up communications with the Governor's Office
- Implemented E.O. requiring City authorization for events or gatherings exceeding 50 persons

- Initiated daily reporting to City Council regarding infection statistics and other City specific data
- At City Council's request, hosted COVID-19 updates from Diana Gomez, Yuma County Health Director, and Dr. Robert Trenchel, CEO of Yuma Regional Medical Center
- Limited Parks and Recreation functions to events that could safely accommodate social distancing and the welfare of participants, such as summer drive-in movie nights and concerts at Desert Sun Stadium
- Assisted the business community in safe operations and recovery
- Fire Prevention and Building Safety personnel provided guidance to local businesses on how to safely shift to meet COVID-19 guidance while remaining in compliance with fire and building codes
- Developed and implemented \$500,000+ in COVID-19 Small Business Relief Grants; all eligible businesses were fully funded
- Developed and implemented the 50+ event application process and guidelines as set forth in the Governor's E.O. and refined to expedite the process
- Led the state in the temporary premises extension process for local businesses that were closed or limited by the Governor's E.O.s
- Instituted a hiring freeze for all non-essential positions
- Immediately reduced spending for all non-essential purchases, which resulted in a net neutral position for the City's budget to offset COVID-19 expenditures
- CARES Act and COVID-19 Recovery Grant Team was put together to manage funding opportunities at the state and federal levels
- Tracked all expenses associated with COVID-19 PPE for submittal to Arizona Department of Emergency and Military Affairs (AZDEMA) and AZCares funding
- Anticipated revenue loss in FY 2020 and FY 2021 was entirely offset through emergency cost-saving measures put in place mid-March when the crisis became known
- Provided staff support for the University of Arizona wastewater early detection test program
- Created, adopted and implemented a fiscally conservative FY 2021 Annual Budget with the theme of 'A Plan for Recovery', including reductions in spending of \$11.2 million organization-wide
- 18% Target Fund Reserve was developed, plus an annual 2% Budget Stabilization Reserve in response to COVID-19

Rodriguez also noted the City has developed and launched a new program and turned the microphone over to **Mayor Nicholls**, who introduced the Adopt-a-Nurse program. A program that provides the community an opportunity to support not just nurses but all local frontline healthcare workers during the pandemic. A website will be rolling out tomorrow where donations and notes of encouragement can be submitted online.

Discussion

- Yuma Regional Medical Center is at crisis level and the community needs to follow best practices to help slow the spread, especially during the holiday season (**Watts**)
- Businesses and restaurants are taking health guidelines seriously and ensuring social distancing, with moving service to their customers outdoors (**Watts**)
- City staff has done a great job of being fiscally responsible during this period of time (**Knight**)
- The gym industry has been very resilient and have taken measures such as reducing capacity and moving exercise classes outdoors to adhere to CDC guidelines (**Shelton/Short**)

- The community is encouraged to support local businesses as much as possible; many have been struggling tremendously during the pandemic (**Morris**)
- Contributions to the Adopt-a-Nurse Program of any size are welcome, from small individual donations to corporate sponsorships (**Morris/Mayor Nicholls**)

I. MOTION CONSENT AGENDA

Motion (Knight/McClendon): To approve the Motion Consent Agenda as recommended. Voice vote: **approved 7-0.**

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

Regular Council Meeting November 4, 2020

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 new Series #12 Restaurant Liquor License application submitted by Ramon Gutierrez, agent for Monster Taco located at 2198 S. 4th Avenue. (LL20-11) (Admin/Clerk)
3. Approve a Temporary Extension of Premises/Patio Permit application submitted by Richard Good, agent for Jimmie Dees located at 38 W. 2nd Street. (EP20-04) (Admin/Clerk)
4. Approve a Temporary Extension of Premises/Patio Permit application submitted by Cory Crouse, agent for Crouse's Flat Top Grill located at 2855 S. 4th Avenue. (EP21-01) (Admin/Clerk)
5. Authorize the City Administrator to execute the subrecipient agreement for the grant award issued by the Arizona Department of Homeland Security. (Police)
6. Approval of the Vision Statement and five Strategic Outcomes developed by City Council. (Admin)
7. Declare and award offer for Sale of Firearms to the highest responsive/responsible offer for a total of \$15,644.25 from the following vendors: King's Firearms Online \$15,240.50, Columbia, Tennessee; Sierra Auction \$403.75, Phoenix, Arizona. (Police) (RFQ #2021-20000059)
8. Ratify the One Arizona Opioid Settlement Memorandum of Understanding between the State of Arizona and Arizona counties, cities and towns, establishing the terms upon which a potential settlement of the ongoing litigation against the opioid industry may be structured. (City Atty)

II. RESOLUTION CONSENT AGENDA

Adoption of Resolution R2020-058 – Development Agreements: Pasque Partners (approve the Olberg and Stinnet Ranch Properties Development Agreement and the Martin Property Development Agreement) (City Admin)

Discussion

- Other than having agreements for several properties associated with a single resolution, these are typical development agreements; all of the subject properties are owned by the same owner (McClendon/Short)

Motion (McClendon/Knight): To adopt the Resolution Consent Agenda as recommended.

Bushong displayed the following titles:

Resolution R2020-057

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with the owner of real property located at 730 South Avenue C (property contains one single-family home and is located outside of the corporate boundary of the City of Yuma) (DCD)

Resolution R2020-058

A resolution of the City Council of the City of Yuma, Arizona, approving the terms and authorizing the City Administrator to execute two Development Agreements between the City of Yuma and Pasque Partners relating to the Olberg and Stinnet Ranch properties and the Martin Property (approximately 185 acres located at the corner of Avenue B and 32nd Street and 33.3 acres located at 32nd Street and Avenue 5E) (City Admin)

Roll call vote: **adopted** 7-0.

III. ADOPTION OF ORDINANCES CONSENT AGENDA

Adoption of Ordinance O2020-026 – Amend Yuma City Code Title 13: Health and Safety (to add Chapter 140 titled Recreational Marijuana) (City Admin)

Watts explained that due to the prohibition of testing facilities and out of concern for health and safety, she would be voting against the adoption of Ordinance O2020-026.

Motion (Knight/Morris): To adopt the Ordinances Consent Agenda as recommended.

Bushong displayed the following title:

Ordinance O2020-026

An ordinance of the City Council of the City of Yuma, Arizona, amending the Yuma City Code by adopting a new Title 13, Chapter 140 relating to the regulation of recreational marijuana; establishing a purpose; setting forth definitions; prohibiting marijuana on public property; regulating marijuana establishments and marijuana testing facilities; establishing residential regulations for recreational marijuana; authorizing retail sales from marijuana and marijuana products; imposing

fees; setting forth violations; and providing for enforcement and penalties (pursuant to the passing of Proposition 207, the “Smart and Safe Arizona Act”) (City Admin)

Roll call vote: **adopted** 6-1, Watts voting nay.

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.

IV. PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM RECOVERY AND RELATED ITEMS

Adoption of Ordinance O2020-027 – Issuance of Pledged Revenue and Revenue Refunding Obligations (approve the sale, execution and delivery of pledged revenue and/or revenue refunding obligations, in one or more series) (City Admin/FIN)

Motion (Knight/McClendon): To adopt Ordinance O2020-027 as recommended.

Bushong displayed the following title:

Ordinance O2020-027

An ordinance of the City Council of the City of Yuma, Arizona, (1) approving the sale and execution and delivery of pledged revenue and/or revenue refunding obligations, in one or more series, evidencing a proportionate interest of the owners thereof in a lease-purchase agreement; (2) approving the form and authorizing the execution and delivery of necessary agreements, instruments and documents related to the sale and execution and delivery of such obligations; (3) adopting post-issuance tax and continuing disclosure compliance procedures in connection with issuance of obligations of the City; (4) delegating authority to the City Administrator and the Director of Financial Services of the City to determine certain matters and terms with respect to the foregoing; (5) authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this ordinance; and (6) declaring an emergency (proceeds will be used to fund all or a portion of the City’s liabilities to the Arizona Public Safety Personnel Retirement System and pay off the higher interest rate bonds used to refinance the long-term debt associated with City Hall) (City Admin/FIN)

Roll call vote: **adopted** 7-0.

Adoption of Resolution R2020-059 – City of Yuma Contingency Reserve Funds Policy (adopt a Contingency Reserve Funds Policy relating to Police and Fire Tier 1 and Tier 2 pension reserve funding and authorize the City Administrator to establish and administer the contingency reserve funds) (City Admin)

Motion (Watts/McClendon): To adopt Resolution R2020-059 as recommended.

Bushong displayed the following title:

Resolution R2020-059

A resolution of the City Council of the City of Yuma, Arizona, adopting a Contingency Reserve Funds Policy relating to the Public Safety Personnel Retirement System Pension Funding (relating to Police and Fire Tier 1 and Tier 2 pension reserve funding) (City Admin)

Roll call vote: **adopted** 7-0.

Introduction of Ordinance O2021-001 – Budget Amendment (authorize the transfer of appropriation in certain Funds with a corresponding increase in revenue and expenditure capacity in certain other Funds and declaring an emergency without exceeding the overall Fiscal Year 2021 Annual Budget) (City Admin)

Bushong displayed the following title:

Ordinance O2021-001

An ordinance of the City Council of the City of Yuma, Arizona, approving a transfer of appropriations within the Fiscal Year 20201 Budget; and declaring an emergency (transfer of appropriations with a corresponding increase in revenue and expenditure capacity without exceeding the overall Fiscal Year 2021 Annual Budget) (City Administration)

V. ANNOUNCEMENTS AND SCHEDULING

Knight, Watts, and Mayor Nicholls reported on events and meetings they have attended during the last two weeks and upcoming events of note.

VI. SUMMARY OF CURRENT EVENTS

Rodriguez reported the following:

- December 28-January 8 – Christmas Tree Recycling Program

Rodriguez introduced the City's new Deputy City Administrator, Jenn Reichelt, a Yuma native who graduated from Cibola High School and went on to earn her Bachelor's and Master's Degrees in Public Administration at Northern Arizona University and comes to the City with 20 plus years of local government experience.

VII. CALL TO THE PUBLIC

Dennis Franklin, City resident, spoke regarding the lack of progress in riverfront development in Yuma despite many projects and hundreds of thousands of dollars spent on studies. He suggested that the City research cities that have been successful in their riverfront development efforts to see what they did right.

Shoop requested that riverfront development be included on a future agenda for in-depth discussion.
Rodriguez stated that riverfront development is part of the strategic plan adopted tonight, and will be one of the areas that City Council will be undertaking in great detail.

VIII. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Nicholls** adjourned the meeting at 7:00 p.m. No Executive Session was held.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor