

MINUTES
REGULAR CITY COUNCIL WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS - YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
December 3, 2019
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, Knight, McClendon, Miller, and Mayor Nicholls
Councilmembers Absent: Thomas
Staffmembers Present: City Administrator, Philip A. Rodriguez
Yuma Police Department, Sgt. Morgan Patterson
Director of Utilities, Jeremiah McCall
Deputy City Administrator, John D. Simonton
Various department heads or their representatives
City Attorney, Richard W. Files
City Clerk, Lynda Bushong

I. LEGISLATIVE UPDATE

Chuck Coughlin and **Scott Smith** of HighGround, Inc. presented a review of the 2019 legislative session and a preview of the 2020 legislative session and election cycle.

Smith presented the following:

Legislative Landscape

- Close Margins
 - House: 31 Republicans & 29 Democrats
 - Senate: 17 Republicans & 13 Democrats
- New Leadership
 - President Karen Fann (R-LD 1)
 - Speaker Rusty Bowers (R-LD 25)
- Increased State Revenues (projected \$1B surplus)
 - Concerns about future economic downturn & committing to ongoing spending
 - Many competing interests (education, transportation, healthcare, etc.)
- Drought Contingency Plan – January 31st Deadline
- Rep. Stringer Resignation / Rep. Steve Pierce Appointed

2019 Session at a Glance

- 134 days of session
- 3rd longest session in the last decade
- 1,318 bills introduced
- 331 bills transmitted to Governor

- 320 bills signed into law/11 bills vetoed
- General Effective Date was August 27, 2019
- Very good budget and policy session for cities & towns
- Close margins helped defeat attacks on cities & towns

State Budget Highlights

- \$11.8B FY20 Spending Plan
 - \$1.4B above FY19 budget
- \$540M to Rainy Day Fund/Budget Stabilization Fund
 - Brings total to \$1B in reserves
- \$74.7M Public Safety Pay Raise
- \$165M for 5% teacher pay raise as part of Governor's 20x20 Education Plan
- \$130M for I-17 widening
- \$28M to expand U.S. Route 95 between Yuma & YPG
- \$18M in additional infrastructure funds to cities and towns
- \$15M School Safety Program for counselors and/or SRO's
- \$15M to Water Quality Assurance Revolving Fund (WQARF)
- \$10.5M for deferred highway maintenance
- VLT Fee (\$32) collected in full but will be eliminated in 2 fiscal years
- No Highway User Revenue Fund (HURF) sweep for public safety
- \$190M Debt Reduction/Early Re-payment
 - Will result in a \$24M/year savings to the General Fund
- Tax Conformity Compromise
 - Collapses brackets from 5 to 4
 - Raises the standard deduction
 - Estimated that 90% of filers will take the standard deduction
 - \$100/child tax credit
 - Can take 25% of annual charitable giving
- Minimum Wage Reimbursement
 - Requires city, town, or county that passed a higher minimum wage than the state to reimburse the state for the difference to cover additional funding for minimum wage contract employees such as developmentally disabled aides or risk having that amount deducted from shared revenue
 - Targeted at Flagstaff
 - Yuma is not impacted by the Minimum Wage Reimbursement

Drought Contingency Plan- Landmark Multi-State Agreement to Protect Lake Mead and the Colorado River Water

- SB 1227 (Colorado River drought contingency amendments)
 - Honors the principles of water management important to Southern Arizona
 - Preserves the priority system
 - Provides funding for lower priority areas
 - Protects Tucson's Conservation Assistance Program (CAP) Allocation
 - Protects investments made by the COT & Tucson Water ratepayers
 - 95% Managed Effluent Recharge Credits significantly benefits Tucson, Pima County, and the Tohono O'odham Nation

Wayfair

- HB 2702 (TPT; marketplace facilitators; nexus)
 - Extensive negotiation
 - Coalition of cities, counties, retailers, shopping centers
 - Arizona Tax Research Association (ATRA) sought elimination of Model City Tax Code (MCTC), requested delay and study committee
 - Revenue estimates between \$50M and \$300M
 - Initial proposal included putting retail section of MCTC in statute and declaration of “statewide concern”
- Ultimate compromise
 - Put retail in statute
 - Hands off MCTC for 5 years
 - Continuation of food tax, feed/fertilizer tax, auto sales tiered rates and sales to out-of-state residents, college textbooks
 - Eliminated “statewide concern” declaration
 - Levels playing field for main street retailers vs. online retailers

Tax Policy Principles

- Policy position that similar products should be taxed similarly regardless of delivery method
- SB 1305 (peer-to-peer car rentals)/HB 2559 (peer-to-peer car sharing) - Defeated
 - Turo and other platforms sought different taxation than conventional car companies
- SB 1460 (TPT; digital goods and services) - Defeated
 - ATRA and industry sought tax exemptions for SaaS, cloud storage, prewritten software accessed remotely
 - Like physical products are subject to taxation
 - DOR estimated annual fiscal impact between \$33M and \$121M
- HB 2027 (online lodging marketplace; local taxation) - Signed
 - Requires taxes imposed on online lodging marketplaces and online lodging operators to be uniform with all other taxpayers engaging in the same activity

Preemption Bills Defeated

- HB 2026 (public resources; influencing elections; penalties) - Failed
 - Authorized a resident to initiate legal action against a jurisdiction that has violated statutes relating to influencing elections and allowed the recovery of damages
- HB 2043 (municipal judges; terms; retention election) – Failed
 - Subjected municipal court judges to retention elections
- HB 2115 (landlord tenant; state preemption) - Failed
 - Specified that the Arizona Residential Landlord and Tenant Act was not subject to further regulation by a county, city or town
- HB 2158 (food; municipal tax exemption) & HB 2638 (municipal tax; exemption) – Both Failed
 - Attempts to prohibit the levying of a food tax home consumption items
- HB 2201 (partisan offices; cities; towns) - Failed
 - Required cities and towns to have partisan elections and authorized a resident to initiate legal action against a jurisdiction that has violated statutes relating to influencing elections and allowed the recovery of damages

- SB 1147 (municipal economic development; sale; lease) - Failed
 - Preempted cities and towns on the sale or lease of municipal property for economic development purposes and declared economic development a matter of statewide concern
- S/E SB 1147 (tobacco products; vapor products) - Failed
 - Declared the regulation of tobacco products a matter of statewide concern and increased the age to sell or purchase tobacco and tobacco related products from 18 to 21

Preemption Bills Enacted

- SB 1154 (primary date; first August Tuesday) - Signed
 - Made various modifications regarding the election cycle and created conflicts with some charter cities, including Yuma
- SB 1231 (public safety; residency requirements; prohibition) - Signed
 - Prohibits residency requirements from being imposed on a firefighter or peace officer, with specified exceptions
- HB 2318 (texting while driving; prohibition; enforcement) - Signed
 - Prohibits the use of a portable wireless communication device or stand-alone electronic device while operating a motor vehicle
 - Exceptions for stoplights, railroad crossings and emergencies
 - Penalties begin on January 1, 2021
 - Local ordinances are grandfathered

Other Bills of Interest

- HB 2005 (traffic survival school; required completion) - Signed
 - Requires the completion of traffic survival school for certain traffic violations
- HB 2108 (real estate signs; cities; counties) - Failed
 - Prohibited a city or town from restricting real estate signs
- S/E HB 2113 (public restrooms; changing stations) - Signed
 - Requires a public entity that constructs or renovates a restroom in a public building to include at least one diaper changing station that is capable of serving babies and adults and that is accessible to both men and women
- HB 2134 (municipal elections; write-in candidates) - Signed
 - Requires a write-in candidate in a municipal election to receive at least the same number of votes as the number of signatures required for nominating petitions for the same office in order to advance to a general or runoff election
- HB 2318 (texting while driving; prohibition; enforcement) - Signed
 - Prohibits the use of a portable wireless communication device or stand-alone electronic device while operating a motor vehicle
 - Exceptions for stoplights, railroad crossings and emergencies
 - Penalties begin on January 1, 2021
 - Local ordinances are grandfathered
- HB 2319 (HURF transfers; highway patrol; repeal) - Failed
 - Repealed the authorization for the transfer of HURF monies to fund highway patrol costs
- HB 2428 (no-water urinals required; public buildings) – Failed
 - Required cities and towns to install water-free or ultra-low flow urinals in all new buildings or in remodeling projects greater than \$10,000

- HB 2464 (water infrastructure finance; municipal approval) - Signed
 - Increased the population threshold that requires a municipality to consider a municipal financial assistance loan repayment agreement by election from 50,000 to 150,000
- HB 2473 (state liquor board; membership) - Vetoed
 - Proposed that one member of the State Liquor Board be a current or former elected municipal official
 - Governor's veto based on the proposal creating a new burden for appointment to the Board and adding red tape to the process
- HB 2536 (fuel; electric cars; hybrids; taxes) - Failed
 - Increased the motor and use fuel taxes and imposed new taxes on alternative fueled vehicles
- HB 2672 (vacation rentals; short-term rentals; regulation) - Signed
 - Makes various reforms to the statute relating to vacation and short-term rental regulations to include that online lodging operators must have a TPT license and establishes penalties to address party houses and public nuisances
- SB 1241 (state parks board; heritage fund) - Signed
 - Re-establishes the Arizona State Parks Board Heritage Fund

2020 Legislative Session- Budget Outlook

- \$1B Rainy Day Fund Balance
- Revenue growth is projected to slow substantially between 2020 and 2023
- State still carrying K-12 Rollover at over \$930M annually
- Joint Legislative Budget Committee projected FY-21 GF Ending Balance is \$694M
- Available spending for ongoing spending is \$170M
- Available spending for one-time purposes is \$475M

2020 Legislative Session- Budget Challenges

- Last Installment of the Governor's 20 X 20 Teacher Pay Raise is \$175M
- Department of Corrections Capital Funding Request is \$385M
- Transportation Infrastructure/Maintenance - TBD
- Other Education Funding - School Safety/Special Ed/Gifted
- 2nd Phase of the Governor's Public Safety Pay Raise – TBD
- Vulnerable Populations – AHCCCS, Child Safety & DES
- Digital Goods?

2020 Legislative Session- Anticipated Policy Issues

- 1st Responders – Cancer Prevention/Presumption/PTSD counseling
- Short Term Rentals
- Construction Sales Tax
- Construction Prompt Pay
- Speculative Builders Tax Exemption
- Executive Session – Security Measures
- Tobacco/Vaping
- Lemonade Stands & Others

2020 Legislative Session- Anticipated Water Issues

- Harquahala Basin Transfer legislation (HB 2609 from 2019 session)
- Legislation to protect from transfer the 4th priority water reserved and allocated to the river communities
- Reform of the Water Bud limitation on storage to prevent transfer of Colorado River water to Central Arizona
- Adjudication Budget enhancements to expedite the adjudication hearings
- Queen Creek still pursuing proposed transfer of Colorado River Water from Cibola in La Paz County

Coughlin presented the following:

2020 Election Cycle

- Highest AZ voter turnout ever was 80% in 1980
- Also on the ballot - U.S. President/U.S. Senate/Congress/State Legislature
- About the 2019 Elections – Turnout Is Up
 - Turnout for a typical off-cycle election: 21.2%
 - March 2019 Phoenix Mayor Run-off: 24.2%
 - August 2019 Phoenix Props 105/106: 25.8%
 - Maricopa County November 2019: 25.8%
 - Pima County November 2019: 33.1%
 - Typical off-cycle turn-out in City of Yuma: 16.1%
 - City of Yuma Turnout November 2019: 18.7%
- Will the Republicans Retain Legislative Majorities?
- Races to Watch
 - LD 6 (portions of Coconino, Yavapai, Navajo and Gila counties)
 - House GOP Candidates: Rep. Blackman, former Rep. Brenda Barton, Jon Saline
 - House DEM Candidates: Mayor Coral Evans, Greg DeCross
 - House Independent Candidate: Art Babbot
 - Senate GOP Candidates: Senator Sylvia Allen, Wendy Rogers, Edward Hampton
 - Senate DEM Candidates: Felicia French
 - LD 28 (north Phoenix, Paradise Valley and parts of Scottsdale)
 - Rematch of Senator Kate Brophy McGee vs. Christine Marsh
 - Can GOP find a viable candidate to fund in the House race
 - LD 17 (Chandler, Sun Lakes and NW Gilbert)
 - Senator Mesnard House vs. potential DEM challenger

2020 Election Cycle – Potential Ballot Measures

- Economic Freedom Act (short term lending)
- AZ Fair Lending Act (banning title lending)
- Smart and Safe AZ Act (recreational marijuana)
- Stop Surprise Billing & Protect Patients Act (hospital wages)
- Fair Elections Act (election reform)
- Invest in Ed (education funding)
- Voters' Right to Know Amendment (dirty money)

Looking Further Ahead

- Upcoming 2020 U.S. Census
- Subsequent Work of the Independent Redistricting Commission
 - Arizona Will Add 1 Congressional Districts
 - Effects on Yuma State Legislative Districts
- 2022 Election

Discussion

- A model of the City Tax Code has not yet been established. The revenue or tax structure for cities and towns are not in statute, it is a separate rule-making process that exist outside the legislature process through committee staffed by the Arizona Department of Revenue. **(Shelton/Smith)**
- Leadership in the Legislation are working statewide on the HURF monies to improve the roads and transportation infrastructure funding as there has not been a raise in Gas Tax in over 20 years. **(Shelton/Coughlin)**
- It is forecasted that the Republican leadership will retain their majorities in the two chambers. President Fann and Speaker Bowers could serve additional terms in their current official appointed positions. **(Shelton/Smith)**

II. K9 EQUIPMENT OVERVIEW AND RECOGNITION OF K9 UNIT DONATION

Patterson presented the following overview of the necessary equipment for K-9 handling and training. He also informed City Council that Bolo, one of their K-9 dogs had recently passed away due to cancer and YPD is now in need of a replacement.

Yuma PD K-9 Unit

- What does Yuma PD K-9 Unit use and how much does it cost?
 - Certify K-9 team \$29,000
 - Purchasing a dog from the supplier in the Netherlands \$12,500
 - Bite Suit \$1,500
 - Bite Sleeve \$250
 - Muzzle \$250
 - Hidden Sleeve \$125
 - Rubber arm/leg \$170
 - Reward Toys \$12-\$25
 - Shoes \$75
 - Detection launcher \$1,000
 - Medical Kit \$350
 - Replacement of damaged equipment such as suits, toys and leashes.

Discussion

- There is no life or medical insurance on the YPD K-9 Unit dogs. **(Watts/Patterson)**
- The dogs are trained to stop biting when the officers prompt them to do so for their safety. The K-9 Units go through yearly certifications to reinforce their training and for assessment. **(Watts/Patterson)**

Patterson introduced **Kathy Bombeck**, who made a monetary donation to the Yuma PD K-9 Unit. **Bombeck** explained that she and her husband are retirees and since her husband was diagnosed with cancer, and awarded payment from the Veterans Administration, they have contributed to the YPD K-9 Unit, as well as other organizations. The Bombeck's will be paying for the safety vest of a new canine.

III. UTILITIES ENFORCEMENT RESPONSE PLAN

McCall briefed the City Council on the Enforcement Response Plan.

Enforcement Response Plan (ERP) Purpose and Goals

The purpose of the City of Yuma's Enforcement Response Plan is to enforce the Industrial Waste and Other Wastewater Discharges Ordinance in an equitable and consistent manner in order to ensure compliance with the ordinance. Its focus is to protect public health and safety, the City's investment in infrastructure, and the health and safety of personnel working in or on the publicly owned treatment works and the environment.

Goals for the City's plan:

- Provide for equitability among similar violations for similar users
- Ensure it is fair, equitable, defensible, and inclusive of any violations of the Industrial Waste and Other Wastewater Discharge Ordinance

ERP

- Requirement
 - The Utilities Department Director is required to submit an Enforcement Response Plan to City Council for Approval
- Yuma City Code Title 19 § 191-10 (f) Administrative Enforcement Remedies
- Federal Pretreatment Regulations 40 CFR 403
 - The Federal Pretreatment Regulations in 40 CFR 403.8(f)(5) require Pretreatment Control Authorities to have an Enforcement Response Plan (ERP) that reflects their primary responsibility to enforce all applicable pretreatment requirements and standards.
- Clean Water Act, Code of Federal Regulations, Arizona Revised Statutes, Arizona Administrative Code, and AZPDES Permit AZ0020443

Compliance History

- ADEQ and EPA Inspections have taken place in 1991, 1995, 2005, 2011, 2012, 2013, 2015 and 2017
- Yuma's ordinance does not meet the requirements of the current Pretreatment Regulations

ERP Requirements

- The ERP must:
 - Describe how the City of Yuma will investigate instances of industrial user noncompliance
 - Cover anticipated types of industrial user violations
 - Describe types of escalating enforcement responses the City of Yuma will take for each type of violation, including time frames for each response
 - Identify, by title, the official(s) responsible to each type of response

Stakeholders and Affected Users

- 6 - Categorical Users
 - GH Processing
 - Johnson Control
 - MCAS
 - Sarah Farms
 - Shaw
 - Yuma CoGen
- 12 - Industrial Users
 - Almark
 - ALSCO
 - Dole Fresh Vegetables
 - International Paper
 - Kinder Morgan – El Paso Gas
 - Mission Citrus
 - MPW
 - Sierra Pacific MHP
 - Unikool
 - Winterhaven Water District
 - Yuma Regional Medical Center
 - Yuma County Improvement District – El Prado Estates
- 7 - General Users
 - ACS – Meter
 - Country Roads – Meter
 - Loves Travel Stop – RV
 - True Leaf Farms – Meter
 - Palms RV – Meter
 - Yuma Civic Center – RV

Compliance Review

- 2016 Comparison of two businesses and code violations amounting to 12 points.

ERP IU EVALUATION		SARAH DAIRY #0002			ALSCO #0007		
		CODE	POINTS	FINE	CODE	POINTS	FINE
2015	October	P8	4	N/A			
2015	November						
2015	December						
CARRY OVER							
2016	January						
2016	February						
2016	March				P8	4	N/A
1st REVIEW			4	N/A		4	N/A
2016	April						
2016	May						
2016	June						
2nd REVIEW				N/A		4	N/A
2016	July	P8	4	N/A			
2016	August	P9	8	N/A			
2016	September						
3rd REVIEW			12	N/A			N/A
2016	October						
2016	November						
2016	December						
4th REVIEW			12	N/A			N/A

- 2017 Comparison of four businesses and code violations amounting between 4 and 12 points.

ERP IU EVALUATION		MCAS #0001			SARAH DAIRY #0002			ALSCO #0007			GH PROCESSING #0062		
		CODE	POINTS	FINE	CODE	POINTS	FINE	CODE	POINTS	FINE	CODE	POINTS	FINE
2016	October												
2016	November												
2016	December												
CARRY OVER													
2017	January												
2017	February										P8	4	N/A
2017	March												
1st REVIEW												4	N/A
2017	April				P8	4	N/A						
2017	May										P9	8	N/A
2017	June							P8	4	N/A			
2nd REVIEW							N/A			N/A		12	N/A
2017	July												
2017	August												
2017	September												
3rd REVIEW						4	N/A		4	N/A		8	N/A
2017	October	P8	4	N/A									
2017	November												
2017	December												
4th REVIEW			4	N/A			N/A			N/A			N/A

- 2018 Comparison of six businesses and code violations amounting between 4 and 16 points
 - One of the business obtained a 16 point violation fee of \$2,500

ERP IU EVALUATION		MCAS #0001			ALSCO #0007			Johnson Controls #0078			SIERRA PACIFIC #0101			EL PRADO #0103			ALMARK #0115		
		CODE	POINTS	FINE	CODE	POINTS	FINE	CODE	POINTS	FINE	CODE	POINTS	FINE	CODE	POINTS	FINE	CODE	POINTS	FINE
2017	October																		
2017	November																		
2017	December																		
CARRY OVER			4	N/A															
2018	January				P8	4	N/A	P8	4	N/A				P8	4	N/A			
2018	February				P9	8	N/A												
2018	March																		
1st REVIEW						12	N/A		4	N/A					4	N/A			
2018	April																		
2018	May										P8	4	N/A	P8	4	N/A			
2018	June										P9	8	N/A	P9	8	N/A			
2nd REVIEW						12	N/A		4	N/A		12	N/A		16	\$2,500			
2018	July																		
2018	August																		
2018	September																		
3rd REVIEW							N/A			N/A		12	N/A		12	N/A			
2018	October																P8	4	N/A
2018	November																		
2018	December																P9	8	N/A
4th REVIEW							N/A			N/A			N/A			N/A		12	N/A

ERP Implementation Schedule- Status of the Enforcement Response Plan

- Consulted with ADEQ for Approval
 - The ADEQ suggestion for the City of Yuma is to follow City of Tempe's ERP and adopt a similar program that will fill Yuma's needs.
 - ADEQ approved it within the year.
- Public Comment Period
 - 38 Days
 - No response was received from the public
- Stakeholder Engagement
 - The stakeholders had a few comments regarding the ERP; those comments were addressed and taken care of.
- Water and Sewer Commission Meeting Discussion
 - September 9th, 2019
 - Everyone at the Water and Sewer Commission Meeting were in support of the ERP.
- Public Meeting
- Water & Sewer Commission Meeting Approval
 - October 7th, 2019
 - ERP was approved.
- December 2019
 - Introduction to Council

Discussion

- A Bio-Solid permit is required for a pretreatment program of water discharge to the aquifer at Desert Dunes. (Knight/McCall)

IV. REGULAR CITY COUNCIL MEETING AGENDA OF DECEMBER 4, 2019

Motion Consent Agenda Item B.3 – Intergovernmental Agreement: City of Somerton Traffic Engineering.
Authorize the City Administrator to execute an IGA to provide traffic engineering services to the City of Somerton. (Engineering)

Discussion

- Simonton will provide answers at tomorrow's night meeting to the questions regarding whether the fees mentioned would cover the City's cost of rendering services and what year 5 will look like given that the fees stated are for a 5-year agreement. (**Knight/Simonton**)

V. EXECUTIVE SESSION

Motion (Knight/McClendon): To adjourn the meeting to Executive Session. Voice vote: **adopted** 6-0. The meeting adjourned at 7:28 p.m.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor