

MINUTES
REGULAR WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS - YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
September 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, Thomas, Deputy Mayor Knight, Miller, and Mayor Nicholls
Councilmembers Absent: McClendon
Staffmembers Present: Interim City Administrator, Jay Simonton
Various department heads or their representatives
City Attorney, Richard W. Files
Deputy City Attorney, Rodney Short
Fire Chief, Steve Irr
City Engineer, Jeffrey A. Kramer
City Clerk, Lynda Bushong

I. MARINE AVIATION WEAPONS AND TACTICS SQUADRON ONE (MAWTS-1) EXERCISE

Colonel David A. Suggs, MCAS-Yuma Commanding Officer and **Major Gregory D. Horchak**, Weapons and Tactics Instructor (WTI) Coordinator presented as follows:

- Assault Support Tactics 3 (ATS-3) Overview: October 18th, 2019, WTI students will conduct the following exercises:
 - Non-Combatant Evacuation Operation in Twentynine Palms, CA
 - Foreign Humanitarian Assistance in Yuma
- Purpose:
 - To provide WTI students realistic training that is consistent with a mission they may execute in real-world operations.
- Aviation Participation:
 - There are over 30 aircraft involved in this exercise, 4 of those in Yuma
 - Flight window is between 4:00 p.m. and 10:30 p.m.
 - Aircrafts used in this exercise included two UH-1Y Hueys and two CH-53 Super Stallions
- Ground Participation will include the following:
 - United States Agency for International Development and Office of United States Foreign Disaster Assistance
 - Marine Security Forces
 - Next Gen Loudspeakers for crowd control
 - Refugee Role Players, will all be civilians volunteering for the rescue exercise
 - Medical Civil Action Program (MEDCAP)
- Landings will include four sites:
 - Yuma Regional Medical Center (YRMC): Landings at YRMC will not interfere with actual medical emergencies

- Centennial Middle School
- Crane Middle School
- Kiwanis Park
- Yuma Flight Operations:
 - Will follow strict adherence to all FAA regulations such as:
 - Minimum of 500' Above Ground Level over the city except during takeoff and landing
 - Communication with air traffic control
- Training Events will include the following:
 - Aviation insert of security forces and MEDCAP
 - Provide aid to refugees and Internally Displaced Persons
 - Provide Casualty Evacuation support
 - Provide on-call reinforcements (additional security)
 - Successfully handle a Mass Casualty situation
 - Extract security forces and MEDCAP
- Safety/Environment at each site will consist of the following:
 - MAWTS-1 Site Commanders to arrive at the site 30 minutes prior to start and also responsible for ensuring site is clean prior to departure
 - Marine Expeditionary Firefighting and Rescue
 - Yuma Police and Military Police to assist with crowd control
 - Drip pans are to be placed beneath forklifts at Kiwanis Park to protect the environment and limited vehicle movement will be performed in order to preserve the grass areas
 - No ordnance will be carried on any aircraft and/or personnel
- Spectators
 - Role players will be in civilian clothes and will wear reflective belts
 - Are encouraged to follow instructions and/or directions of local authorities and exercise personnel for their own safety
- Contact Numbers
 - MCAS Yuma Public Affairs Office: 269-2275, a Public Notice will be run in the Yuma Sun
 - Noise Complaint Hotline available during working hours: 269-2325
 - MAWTS-1 Supervisor of Flight for Emergencies only during AST-3 flight operations: 269-3604
 - After Hours MCAS Officer of the Day: 269-2252
 - Evolution Coordinator: Major Gregory Horschak: 269-6203 or via email at gregory.horschak@usmc.mil

Discussion:

Mayor Nicholls asked what the best time is to get to the event if spectators would like to attend and view the exercises. **Horschak** responded that the best time would be from 5:00 p.m. to 8:00 p.m. **Mayor Nicholls** thanked **Colonel David A. Suggs** and **Major Greg Horschak** for their presentation and service.

II. ARIZONA PUBLIC SERVICE INTRODUCTIONS

Jeff Spohn, Director of Distribution Operations and Maintenance at Arizona Public Service (APS) thanked the City Council for their support throughout the years and introduced **Regina Twomey**, as new Community Affairs Manager and **Danny Ortega**, former Mayor/City of Douglas, as new Southwest Division Manager for APS.

III. CITY CHARTER SECTIONS OVERVIEW

Files and **Short** presented the following items from the City Charter:

Article XII Contracts and Competitive Bidding were presented by **Files** as followed:

- Section 1. (a) Informal Bidding: The City shall obtain, if possible, informal competitive bids in writing from at least three suppliers or contractors on expenditures greater than five percent of the amount stated in the procurement laws of the State of Arizona.
- Section 1. (b) Formal Bidding: For expenditures in excess of the highest amount authorized in subsection (a) above, advertising for formal competitive bids shall be required. A one-time advertisement in the official city newspaper may be in summary form. It shall specify in general terms, the goods or services sought and shall specify at the time and place where such bids will be opened and read at a public meeting by or in the presence of the contracting officer of the City. The advertisement shall also contain a statement of the place that copies of the official call for bids, including plans and specifications, if any, and instructions to bidders may be obtained. (Sp. Elec. 12/7/93)
- Section 1. (c) Acceptance of bids: The City Council shall accept the formal bid which, under all circumstances, appears to be in the best interest of the city or the city council may reject all bids and readvertise. (Sp. Elec. 4/7/70)

A.R.S. § 41-2535 was presented as followed:

- Procurements not exceeding a prescribed amount; small businesses; simplified procurement program.
- Section B. Any procurement that does not exceed the aggregate dollar amount of less than one hundred thousand dollars shall be restricted, if practicable, to small businesses as defined in rules adopted by the director. The procurement officer shall rotate the small business solicited to compete for any procurement of less than one hundred thousand dollars. If it is impracticable to restrict a particular procurement to small businesses, the procurement officer shall make a determination setting forth the reasons and place in the contract file.
- A.R.S. § 41-2535 procurements not to exceed the prescribed amount of \$100,000 set on 2013, prior to that it was set at \$50,000 and so forth.

Article VIII City Administrator:

- Section 4. (i) He or the Acting City Administrator shall execute, attested by the City Clerk all contracts for amounts exceeding \$25,000 and such other documents as may be authorized by the City Council, and not prohibited by law. The Purchasing Agent may authorize contracts of \$25,000 or less in accord with this Charter and the purchasing ordinance of the City on the terms set forth in such ordinance. (Sp. Elec. 4/7/70; Gen. Elec. 12/1/81; Sp. Elec. 11/2/99)

Discussion:

Files, **Knight** and **Mayor Nicholls** discussed the dollar amount limit of \$25,000 and above for bidding that require the City Administrator's signature. It was also discussed that this rule had been followed in accord to Arizona Statutes and City Charter.

Article VI, Section 14 Compensation presented as follows by **Short**:

- Article VI, §3(b) (compensation for City Clerk)
- Article VI, §3(c) (compensation for City Attorney)

- Article VI, §3(d) (compensation for Finance Director)
- Article VI, §14(a) & (b) (compensation for Mayor, City Councilmembers, and all other officers)
- Article VI, §16 (prohibitions on City Councilmembers having two paid positions with the City and time delays for obtaining future paid positions with the City after elected service)
- Article VIII, §1 (compensation for City Administrator)
- Article XI, §3 (compensation for the Municipal Judge)
- Title 14 (Probate-succession of property)
- Title 20 (Insurance Companies-dissolution)
- Title 23 (wages; Employment Security; industrial benefits)
- Title 28 (Transportation-tax)
- Title 33 (Property-homestead)
- Title 38 (ASRS; PRPRS)
- Title 43 (Taxation of Income)
- 26 U.S.C. § 106 (IRS) (exempts health coverage)

Discussion:

Short elaborated on the legal analysis if there is a violation of the compensation provision in Article IV Section 14 of the City Charter. **Short** explained the A.R.S. 38-502 does have a definition of compensation, but it is very broad. He explained that under the context of compensation to third party employee-employer, elected officials such as Councilmembers and elected Judges are all considered employees under every aspect of law. **Short** went on to explain that the City Charters meaning for the word compensation is wages and/or salary. According to the Arizona Statutes Revision and City Charter, the City is not in violation when providing benefits to elected officials.

Knight reiterated that if the City were in violation, the elected officials would not have coverage under the Arizona Elected Official Retirement Plan. **Short** confirmed that to be true.

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

Motion Consent Agenda Item B.11 - Change Order: Fire Station No. 4 Improvements (Authorize the City Administrator to approve a planned change order to the Construction Services Contract with CORE Construction, Inc. for Fire Station No. 4 Improvements in the amount of Guaranteed Maximum Price Proposal #2 \$1,600,000.00). (ENG)

Discussion:

Mayor Nicholls clarified that his company Core Engineering Group is not the one leading this project, but another company named CORE Construction, Inc.

Resolution Consent Agenda R2019-034 – Repeal and Replace: City of Yuma Emergency Operations Plan (Repeal Resolution R2011-29 related to the City of Yuma Emergency Operations Plan 2011 and adopt the updated City of Yuma Emergency Operations Plan 2018) (YFD)

Discussion:

Shelton asked if he could get more detail on the matter. **Irr** responded that it is an update of the Yuma Emergency Operations Plan that is required in order to obtain funding, a guiding document. It is a high-level document on how to handle certain emergencies.

Resolution Consent Agenda R2019-029 – Lease Agreement: Amberly's Place, Inc. (Authorize the City Administrator to execute a 12-month lease agreement with Amberly's Place, Inc., for City property located at 812 S. Avenue A) (Admin)

Discussion:

Watts asked if it is common for a non-profit to have a lease of \$1,215.00. **Simonton** responded that Amberly's Place have always paid the fair-market value; however, the City does take care of the maintenance, such as replacement of the air conditioner, in those cases, the lease amount could be justified.

Introduction of Ordinance O2019-032- Declare Property Surplus and Authorize Sale: Crest Drive (Authorize the vacation of Crest Drive right-of-way, reserving utility and access easements, declare the right-of-way (subject to the reserved easements) surplus and authorize an exchange of the surplus right-of-way to Bill Alexander Ford Lincoln Mercury Inc. in exchange for a covenant to perform landscape maintenance of the Bonanza Basin Property) (ENG)

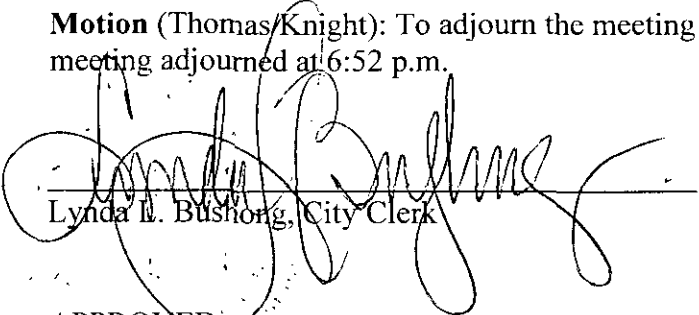
Discussion:

Mayor Nicholls disclosed that his firm Core Engineering Group worked on the Declaration for the Surplus of Crest Drive, he will be recusing himself from any deliberation and discussion on this item.

Thomas asked if after a year or more the basin's maintenance is not up to City Code, the City would be responsible for maintenance, and if so what would be the cost reverted to the tax payers if this were to happen. **Kramer** responded the reversion clause is that the City would retake the road back, Crest Drive and not the basin. The City would own the right-of-way.

V. EXECUTIVE SESSION

Motion (Thomas/Knight): To adjourn the meeting to Executive Session. Voice vote: **adopted** 6-0. The meeting adjourned at 6:52 p.m.


Lynda L. Bushong, City Clerk

APPROVED:


Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of:
May 6 - 2020
City Clerk: 