

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
FEBRUARY 3, 2021
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:34 p.m.

INVOCATION/PLEDGE

Howard Blitz, from Congregation Beth Ha Midbar, gave the invocation. **Junior Garcia**, Video Production and Operation Specialist, 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 Various Department Heads or their representative Assistant City Attorney, Scott McCoy Police Sergeant, Johnny Vidrio City Attorney, Richard W. 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.

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	January 6, 2021
Regular Council Meeting	January 20, 2021

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)

II. ADOPTION OF ORDINANCES CONSENT AGENDA

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

Bushong displayed the following titles:

Ordinance O2021-002

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, providing for changes to the Zoning Code, Article 22, related to Recreational Marijuana establishments, and providing penalties for violations thereof (DCD)

Ordinance O2021-003

An ordinance of the City Council of the City of Yuma, Arizona, repealing Chapter 211 §§ 09 and 10 of the Yuma City Code relating to the operation of portable communication devices while driving (City Attny)

Ordinance O2021-004

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development and Property Disposition Agreement with the owner of real property located at 414 South Vaughn Avenue and declaring certain right-of-way, hereafter described, surplus for city use and authorizing the dedication of the surplus right-of-way to Yuma County pursuant to the Preannexation Development and Property Disposition Agreement (ENG)

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

III. INTRODUCTION OF ORDINANCES

Introduction of Ordinance O2021-005 – Repeal and Replace Title 21, Chapter 213, Yuma City Code (Approve an Ordinance repealing and replacing Title 21, Section 213 of the Yuma City Code with updates to regulations relating to the use and operation of bicycles, electric bicycles, electric scooters, electric miniature scooters, electric skateboards, motorized play vehicles and similar devices) (YPD)

Scott McCoy, Assistant City Attorney presented the following:

- Current City Code Provisions were adopted in 1978 and primarily focused on bicycle use.
- The City Code was amended in 2004 in response to the introduction of certain motorized devices/play vehicles such as the “GoPed”
- New alternative transportation and play devices have appeared on the scene in the last decade, such as electric and motorized bicycle, electric personal assistive mobility devices, electric scooters, motorized and electric skateboards and motorized play vehicle.
- A shared mobility device company recently advised the City that they intend to introduce electric scooters potentially by the end of February which prompted staff to look at the current City Code.
- The devices mentioned are not considered motor vehicles under Arizona Revised Statutes Title 28.
- New devices have created new issues which include:
 - Improper parking and Right-of-Way clutter
 - Blocked public access
 - Private property rights
 - Rider and automobile conflicts

- Rider and pedestrian conflicts
 - Unsafe or improper use
- As a result of these new technologies, changes in the marketplace, and the issues associated with the use of shared and non-shared mobility devices, the Yuma City Code is in need of an update to address gaps in current regulations.
- There are two classes of devices regulated by the new ordinance:
 - Transportation Related Devices, designed and intended to move people around in the community and include bicycles, electric and motorized bicycles, and electric scooters.
 - Recreational/Residential Use Devices, designed for recreational purposes and are often used in residential neighborhoods by children; not typically devices used in a commercial context (not for rent) and include electric miniature scooters, motorized and electric skateboards and motorized play vehicles.
- The reason for different regulations for the transportation related devices and the residential/recreational devices is based on the way these devices are intended to be used.
 - Section 213-02 through Section 213-13 of Ordinance No. O2021-005 regulate the transportation related devices (bicycles, electric and motorized bicycles, electric scooters)
 - Section 213-14 through Section 213-20 of Ordinance No. O2021-005 regulate the residential/recreational related devices (electric miniature scooters, motorized and electric skateboards and motorized play vehicles)
- Regulations directed at transportation devices include:
 - Use and operation regulations (§§ 213-03; 213-04; 213-05; 213-07)
 - Parking regulations (§§ 213-06; 213-08)
 - Prohibited operations (§ 213-09)
 - Required safety equipment (§ 213-13)
 - Unlawful operation while impaired (§ 213-11)
 - Penalty provisions (§ 213-21)
- Regulations directed at recreational/residential devices include:
 - Prohibited operations (§ 213-15)
 - Operating restrictions (§§ 213-16, 213-17)
 - Required safety equipment (§ 213-18)
 - Responsibilities of sellers (§213-19)

Discussion

- The intent of this Ordinance is for general applicability to regulate the users of the devices not the rental companies. **(Mayor Nicholls/McCoy)**
- The criminal ordinance for driving while impaired (DUI) does not apply to those operating electric/motorized scooters or bicycles since the operation of electric scooters does not require an operator's license. **(Mayor Nicholls/McCoy)**
- Outreach to stakeholders that might be affected by this ordinance will begin after tonight's meeting. In addition, the Communications Department will be reaching out to the community through public service announcements. **(Mayor Nicholls/McCoy)**
- Electric scooters will be treated like bicycle and are allowed in bicycle lanes. The minimum age limit is 16 for transportation vehicles and 14 for recreational/residential devices. However, the rental scooter company will not rent to anyone under 18. **(Shoop/McCoy)**
- No registration is required for these devices. However, the community is encouraged to register their bicycles with the Yuma Police Department, but are not required to do so. **(Shoop/McCoy)**

- The Yuma County Bicycle Coalition will be included in the outreach that will be taking place in the near future, as they are the leading bicycle advocates for Yuma. Sergeant Vidrio has worked with the city of Scottsdale's transportation department and legal department to understand how their ordinance works. It is not anticipated that the City of Yuma will have the same issues as the Scottsdale as Yuma does not have the congestion that Scottsdale has. (Shelton/McCoy)
- The rental companies are responsible and will possibly be cited for scooters littered throughout the City. (Watts/McCoy/Vidrio)
- Scooter racks in centralized locations might be key to avoid scooters being littered throughout the City. (Deputy Mayor McClendon)
- There are some code provisions in the planning where bike racks can be used for scooter parking as well. Scooter racks should be the financial obligation of the scooter companies and not the City of Yuma. (Knight/McCoy)
- Seeing what issues might arise before making any revisions is suggested. Perhaps the next amendments can include a registration system for those companies that are utilizing public right away for profit. (Mayor Nicholls)

Motion (Knight/Shelton) to amend Section 213-13(a) of Ordinance O2021-005 to strike the first sentence in its entirety and replace with the following sentence: "An electric scooter that is used at nighttime shall have a lamp on the front that emits a white light visible from a distance of at least five hundred feet to the front and a lamp on the rear that emits a red light visible from the back at a distance of at least five hundred (500) feet from the back. Voice vote: **approved 7-0**

Bushong displayed the following titles:

Ordinance O2021-005

An ordinance of the City Council of the City of Yuma, Arizona, repealing, in its entirety, Yuma City Code Title 21, Chapter 213: Bicycles and play vehicles and replacing with Yuma City Code Title 21, Chapter 213: Bicycles, electric bicycles, electric scooters, electric miniature scooters, electric skateboards, motorized skateboards, motorized play vehicles, similar devices and multiuse paths to promote and protect the public health, safety, and general welfare by providing for the regulation of the operation of bicycles, electric bicycles, electric scooters, electric miniature scooters, electric skateboards, motorized skateboards, motorized play vehicles and similar devices and providing a penalty for violations thereof (YPD)

IV. PUBLIC HEARING AND RELATED ITEMS

MC 2021-007 – Biennial Development Fee Audit Hearing (Conduct a public hearing on the Development Fee Biennial Certified Audit in accordance with Arizona Revised Statutes (A.R.S.) §9-463.05 and Yuma City Code § 157.05.) (ENG)

Mayor Nicholls opened the public hearing at 6:14 p.m.

Carter Froelich, CPA-Managing Principal from Launch Development Finance Advisors presented the following information relating to the audit process conducted by his company:

Scope

- FYE 6/30/19, 6/30/20;
- Development Impact Fee (DIF) accounts 341, 344, 345 and 348.

Reviewed Land Use Assumptions

- Compare projections to actual results.

Review Infrastructure Improvement Plan

- On a test basis, there were selected transactions that were verified that expenditures are authorized pursuant to Fee Study and the Act.

Review City's Implementation and Administration of the Program

- Confirmed proper collections of DIF;
- Confirmed adherence to Reporting requirements.

Population

Description	2018	2019	2020
Population Per City (1)	103,469	105,365	107,296
Population Per Land Use (2)	101,492	103,905	105,068
Difference	1,977	1,460	2,228

Land Use Assumptions

Single Family (SF) Units -- exceeding expectations

Description	2018-2019	2019-2020
SF Permits Per City (1)	470	527
Estimated SF Units/ Land Use Study	303	306
Difference	167	221

Multi-Family (MF) Units- below projections

Description	2018-2019	2019-2020
MF Units Per City	4	14
Estimated MF Units/ Land Use Study	108	109
Difference	(104)	(95)

Commercial Square Footage- below estimates

Description	2018-2019	2019-2020
Comm SF Per City	275,871	189,998
Estimated Comm SF/ Land Use Study	344,000	350,000
Difference	(68,129)	(160,002)

Froelich recommended continuing to monitor permit activity and consider updating projections in MF and Commercial continue to lag.

General Plan Amendments

Plan Number	Request	Acres	Plan Type	Work Class
GP-025035-2019	Commercial to Mixed Use	19.4	General Plan Amendment	Minor Amendment
GP-026140-2019	Rural Density Residential to Low Density Residential	19.28	General Plan Amendment	Minor Amendment
GP-026567-2019	Low Density Residential, Commercial, Public/Quasi-Public and Resort, Recreation and Open Space to Low Density Residential, Medium Density Residential and Public/Quasi-Public	315	General Plan Amendment	Major Amendment
GP-027420-2019	Medium Density Residential to Commercial	2.66	General Plan Amendment	Minor Amendment

Transaction Testing

- Selected DIF expenditures and collections for testing.
- Nothing was found that would lead the advisors to conclude that the City of Yuma's DIF program is not properly administered.
- The City of Yuma has been properly updating land use assumptions and Infrastructure Improvement Program (IIP).
- DIF program is being properly implemented and administered.
- Will continue to monitor permit activity.

Speakers- none at this time

Motion (Knight/McClendon): To close the Public Hearing. Voice vote: **approved** 7-0; Public Hearing closed at 6:23 p.m.

Discussion

- Advisors only focused on the expenditures and new growth in terms of capital facilities and if the monies spent have been used in a constructive and transparent manner. **(Knight/Froelich)**

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.

V. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Appointments

Motion (Knight/Watts): To appoint Jim Chancey to the Parks, Arts and Recreation Commission with a term expiration of December 31, 2025. Voice vote: **approved** 7-0.

Announcements

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

Shelton requested that a resolution regarding fireworks be considered at a future meeting. **Mayor Nicholls** suggested **Shelton** get in contact with Deputy City Attorney, Rodney Short to work on the resolution. (Shelton/Mayor Nicholls)

Scheduling

Motion (Knight/Watts): To schedule a Special City Council Worksession on February 23, 2021 at 2:00 p.m., with an agenda to be posted in accordance with Arizona Open Meeting Law.

VI. SUMMARY OF CURRENT EVENTS

Rodriguez reported the following:

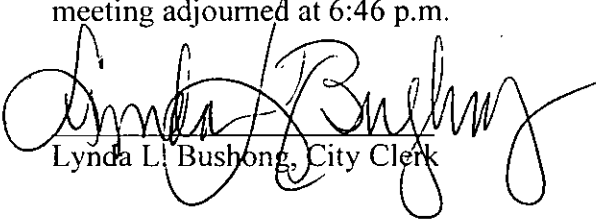
- February 3 - Yuma Art Center's Facebook and Instagram Virtual Concert 7:00 p.m.
- February 5 - Yuma Area Prayer Breakfast via Facebook Live at 7:00 a.m.
- February 6 - February Foot Race at the West Wetlands Park at 8:15 a.m.
- February 16 - City Street crews will be working on traffic signal updates at 16th Street and 14th Avenue

VII. CALL TO THE PUBLIC

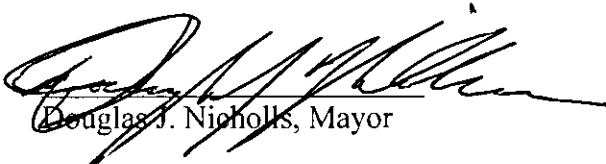
Mia Donnelly, City resident, expressed her opposition to the mask mandate in place.

VIII. EXECUTIVE SESSION/ADJOURNMENT

Motion (Knight/Morris): To adjourn the meeting to Executive Session. Voice vote: **adopted** 7-0. The meeting adjourned at 6:46 p.m.


Lynda L. Bushong, City Clerk

APPROVED:


Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of: <u>March 3, 2021</u> City Clerk: <u>[Signature]</u>
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