

Upon notice duly given under Arizona Revised Statutes, Section 38-431, et seq., as amended, the City Council of the City of Bullhead City held a Special Meeting on Tuesday, December 1, 2020, in the Council Chambers, 1255 Marina Blvd., Bullhead City, Arizona.

CALL TO ORDER

Council Member Clark called the special meeting to order at 3:30 p.m.

ROLL CALL

Council Present

Brady (via Zoom conference), Bruck, Brummett, Clark, Wegmann, Zehri

Council Absent

D'Amico

Staff Present:

CITY MANAGER: Toby Cotter

CITY ATTORNEY: Garnet Emery

CITY CLERK: Susan Stein

DISCUSSION ITEM(S)

1. Discuss and provide staff direction concerning City impact of the recent voter approval of the "Smart and Safe Arizona Act" (Proposition 207) which legalizes recreational use of marijuana in Arizona.

City Manager Cotter said the Council would hear information from City Attorney Emery on the impact of the legalization of marijuana on the city. He said they recommended the city allow recreational sales of marijuana within the city limits. He said the financial benefit was important to the city whether someone was for or against the legislation.

City Attorney Emery provided a presentation on Proposition 207, the Smart and Safe Arizona Act. He said a person at least 21 years of age or older may legally possess one ounce or less of marijuana with no legal consequence, and may transfer one ounce or less. He said possession of more than one ounce but less than 2.5 ounces was a petty offense and possession of 2.5 ounces or more was subject to criminal prosecution under existing law. He said the statutory structure for drug laws was still in place (Title 13), but carved out exceptions to its enforcement. He said offenses would be reviewed on a case by case basis by the prosecuting agencies. He said concentrates were a more potent version and said law enforcement agencies would measure out the amounts.

Council Member Zehri asked about the differentiation between CBD and THC content.

City Attorney Emery said marijuana had to be packed and marked by concentration to be easily discernable for appropriate market distribution, and said the regulation would be put in place by the Department of Health Services sometime this spring or summer.

City Attorney Emery discussed possession violations for people under 21 years of age, and said this group could not legally possess. He said possession of one ounce or less was a civil violation, and subsequent violations increased the penalty to a petty offense and then a misdemeanor offense. He said misrepresenting age was a petty offense, and a subsequent offense was a class 2 misdemeanor. He said soliciting to purchase was a petty offense and a subsequent offense was a class 3

misdemeanor. He said possession by minors would be referred to the juvenile courts and prosecution officials for review under existing law.

City Attorney Emery said driving under the influence of marijuana would still be prosecuted as DUIs were now. He said smoking marijuana in a public or open space was a petty offense. He said public and open spaces included businesses where the public was invited and open areas such as sidewalks and parks. He said businesses and government employers may still regulate the workplace, including prohibitions on possession or consumption. He said allowing an authorized growing activity to be visible to the public was a petty offense. He said marijuana plants must be locked in order to prevent access by minors.

Council Member Zehri asked if Homeowner Associations (HOA) could regulate and enforce the use.

City Attorney Emery said the city did not enforce any HOA regulations.

Council Member Clark asked if private parks or gated areas would be considered “public space.”

City Attorney Emery said gated communities had exceptional privileges to enter, and said the matter should be explored with individual HOAs.

Council Member Brummett asked if there were regulations about the smell of smoke coming from neighboring homes.

City Manager Cotter said the reality of some enforcement would be difficult. He said educational campaigns must happen in order for people to understand the consequences. He said smoking marijuana would not be allowed in public parks.

City Attorney Emery said businesses and governments could regulate possession on their own premises. He said only one license was allowed for every ten dispensaries. He said existing medical dispensaries had the opportunity to apply for licensing from the Department of Health Services (DHS) from January to March 2021.

Council Member Zehri said there was a difference between medical and recreational marijuana. He asked if there were issues when an existing medical dispensary applied to sell recreational marijuana.

City Attorney Emery said the Arizona Department of Revenue would tax recreational marijuana at 16 percent to cover costs with the remainder being split with community colleges (33%), local police departments (31%), HURF (25%), justice reinvestment (10%), and attorney general enforcement (2%). He said local taxation at the city’s current tangible retail rate was two percent. He said no other taxes or surcharges would be allowed.

City Manager Cotter said there was a difference between a recreational user and someone who had a medical prescription. He said there was a need for both. He said the state would impose the higher tax and the city would impose its retail tax on recreational marijuana sales.

City Attorney Emery provided information on State Statute (ARS) 36-2857. He said the city could enact reasonable zoning regulations that limit the use of land for marijuana establishments and marijuana testing facilities to specified areas and limit the number of marijuana establishments or marijuana testing facilities, or both. He said the city could prohibit marijuana establishments or marijuana testing facilities, or both; and regulate the time, place, manner, and public signage for marijuana establishments and marijuana testing facility operations. He said the city could prohibit or restrict delivery within its jurisdiction.

Council Member Clark asked if there were limitations on the number of establishments that could be located in a certain area.

City Attorney Emery said the dual applicants would be authorized first, and said one recreational license could be allowed for every ten pharmacies.

Council Member Zehri asked about the cost for the permit.

City Attorney Emery said the cost for a recreational permit would be substantially more than a dispensary permit. He said the cities of Kingman and Lake Havasu had not taken any formal action at this point in time, but said the recommendations were heading toward authorizing recreational sales in connection with dispensaries.

Council Member Clark asked if anyone from the public wanted to speak.

Scotty McClure asked if there were provisions on the locations of the facilities. He said he was concerned about the scent coming from outside marijuana plants being grown in neighborhoods. He said marijuana would benefit many veterans and those with PSD. He said a retail location along Miracle Mile would be the best place for a facility.

Dave Lieberman said he would like the Council to keep an open mind, and make it possible for the small businesses to thrive in the community. He requested the city to not overregulate.

Mayor Brady said he was concerned about the regulation of home deliveries for recreational marijuana. He said the Council would discuss this in the future.

City Manager Cotter said the medical delivery and drive-through were both important in order to assist patients.

Council Member Zehri said the Council should remain business friendly, and said this was another business opportunity for the city.

Council Member Brummett said the sale of marijuana was a financial benefit for the city. She said she was concerned about the impact on the police department and said there had to be an educational component.

Council Member Bruck said she supported it but did not want to see a facility on every corner.

Council Member Clark said they should encourage the current medical marijuana dispensary to apply for a recreational permit. He said he would rather have a facility located within the city limits than Fort Mohave in order to receive additional sales tax revenue.

City Manager Cotter said the city had only a small number of police-related issues with the dispensary. He said large groups of people or events in the park were more of a concern, as well as impaired people operating vehicles or watercraft on the river.

MOTION: Council Member Wegmann made a motion to adjourn the special meeting and convene into executive session at 4:36 p.m. Council Member Bruck seconded the motion.

VOTE: AYES: Brady, Bruck, Brummett, Clark, Wegmann, Zehri NAYS: None
ABSENT: D'Amico

MOTION CARRIED

EXECUTIVE SESSION

2. Discussion or consultation for legal advice concerning the status of the City's eminent domain litigation with EPCOR and related issues involving EPCOR's current matters before the Arizona Corporation Commission. Arizona Revised Statutes § 38-431.03(A)(3).
3. Discussion or consultation for legal advice concerning the status of the City's litigation with various parties concerning the opioid crisis and the pending settlement proposed by the Arizona Attorney General. Arizona Revised Statutes § 38-431.03(A)(3).

MOTION: Council Member Wegmann made a motion to adjourn from executive session and the special meeting at 5:15 p.m. Council Member Bruck seconded the motion.

VOTE: AYES: Brady, Bruck, Brummett, Clark, Wegmann, Zehri NAYS: None
ABSENT: D'Amico

MOTION CARRIED

ADJOURNMENT

Council Member Clark declared the special meeting adjourned at 5:16 p.m.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct record of the special meeting of the City Council of the City of Bullhead City held on the 1st day of December 2020. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 15th day of December 2020.

Susan Stein, MMC, CPM
Susan Stein, MMC, CPM
City Clerk

Upon notice duly given under Arizona Revised Statutes, Section 38-431, et seq., as amended, the City Council of the City of Bullhead City held a regularly scheduled meeting on Tuesday, December 1, 2020, in the City Council Chambers, 1255 Marina Boulevard, Bullhead City, Arizona.

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Clark called the meeting to order at 5:30 p.m. and invited Spiritual Leader Maryann Shepherd to deliver the invocation. Council Member Bruck led the assembly in the Pledge of Allegiance to the Flag.

ROLL CALL

Council Present

Brady (via Zoom conference), Bruck, Brummett, Clark, Wegmann, Zehri

Council Absent

D'Amico

Staff Present:

CITY MANAGER: Toby Cotter

CITY ATTORNEY: Garnet Emery

CITY CLERK: Susan Stein

INTERIM POLICE CHIEF: Robert Trebes (via Zoom conference)

FINANCE DIRECTOR: Rudy Vera (via Zoom conference)

INTERIM PUBLIC WORKS DIRECTOR: Angie Johnson (via Zoom conference)

HUMAN SERVICES DIRECTOR: Jeff Tipton (via Zoom conference)

DEVELOPMENT SERVICES DIRECTOR: S. Chooniyom (via Zoom conference)

PRESENTATIONS AND PROCLAMATIONS

None

OPEN CALL TO THE PUBLIC

Mayor Brady opened the call to the public.

Royanne Ortiz said no one in the county should die from the coronavirus due to the use of new therapeutics. She asked why local doctors did not advise their patients about the therapeutics.

Mary Bonaventura said the city placed a lien on her property when no money was owed, and said the city had inflicted a reign of terror upon her.

Eva Corbett invited the public to attend a Bunco fundraiser for the Women's Republican Club on December 4th, and the We Care For Animals fundraiser on December 20th at That Dam Diner.

Sue Demarco invited the public to attend a fundraiser to benefit the Saving Animals In Need Together organization at Happy Place Subs from December 7th through December 12th. She provided information on an upcoming shot clinic.

Scotty McClure said Walmart removed three handicapped parking spaces, and said more spaces were needed at Safeway and other businesses. He said he would like to see the bus stop re-established at Rio Grande.

Having no one else present wishing to speak, Council Member Clark closed the call to the public.

AGENDA MODIFICATIONS

None

WAIVER MOTION

MOTION: Council Member Wegmann made a motion to waive the reading in full of all ordinances and resolutions presented for adoption at this meeting. Council Member Bruck seconded the motion.

VOTE: AYES: Brady, Bruck, Brummett, Clark, Wegmann, Zehri NAYS: None
ABSENT: D'Amico

MOTION CARRIED

MANAGER'S REPORT

1. Bullhead Area Transit System (BATS) "Free Ride Month"

Transit Manager Peluso provided a presentation commemorating the 20th Anniversary of the Bullhead City Transit System. He discussed the history, statistics, grant program, and other information regarding the city's paratransit and bus system. Former Council Member Sam Medrano joined the presentation via Zoom conference and said he was proud to have been a BATS Commission Member.

2. COVID-19

City Manager Cotter said they stressed that people should get tested for COVID-19 if they felt sick. He said free testing was available through Embry Women's Health at Mohave Community College or North Country Health. He said they were hearing that vaccines would be available soon and said the city would do everything possible to support the medical community in distributing the vaccines.

MAYOR AND COUNCIL MEMBERS' REPORTS ON CURRENT EVENTS

Council Member Bruck reminded the public that the Medicare open enrollment period would end on December 7th.

ITEMS WITHDRAWN FROM CONSENT AGENDA

None

CONSENT AGENDA

MOTION: Council Member Bruck made a motion that Item No. 1 on the Consent Agenda be approved in accordance with the reports, certifications and recommendations furnished each Council Member and without further discussion. Council Member Wegmann seconded the motion.

VOTE: AYES: Brady, Bruck, Brummett, Clark, Wegmann, Zehri NAYS: None
 ABSENT: D'Amico

MOTION CARRIED

Items on the Consent Agenda were approved as follows:

1. Approval of the Minutes of the Special Council Meeting held on November 17, 2020; and the Minutes of Regular Council Meeting held on November 17, 2020. (City Clerk Stein)

PUBLIC HEARINGS ON ITEMS PULLED FROM CONSENT AGENDA

None

BOARD/COMMISSION/COMMITTEE APPOINTMENTS

None

PUBLIC HEARINGS ON LIQUOR LICENSE APPLICATIONS

None

ACTION ITEMS

Building, Planning and Zoning Items

2. Discussion and possible action to approve: 1) the Final Plat for The Ridge at Fox Creek, Tract 5147, Unit 5; 2) the Financial Assurance through the Property Escrow Agreement; 3) the Water Allocation in the amount of 6.05 acre-feet; and 4) authorizing the Mayor to execute the agreement on behalf of the city. (Development Services Director Chooniyom)

City Manager Cotter said this was a routine item. He said the proposed project included 9.33 acres to be subdivided into 18 lots for single-family residential development, public utilities, drainage, and open space.

Council Member Clark asked if anyone from the public wanted to speak. No one from the public spoke.

MOTION: **Council Member Wegmann made a motion to approve: 1) the Final Plat for The Ridge at Fox Creek, Tract 5147, Unit 5; 2) the Financial Assurance through the Property Escrow Agreement; 3) the Water Allocation in the amount of 6.05 acre-feet; and 4) authorizing the Mayor to execute the agreement on behalf of the city. Council Member Bruck seconded the motion.**

VOTE: AYES: Brady, Bruck, Brummett, Clark, Wegmann, Zehri NAYS: None
 ABSENT: D'Amico

MOTION CARRIED

Bid Awards, Contracts, Intergovernmental Agreement, and Purchases

3. Discussion and possible action to provide direction to city staff concerning the Attorney General's "One Arizona Opioid Settlement Memorandum of Understanding" proposal. (City Manager Cotter)

City Manager Cotter said, for many years, cities across the county had been dealing with the generational problem of addiction to narcotics. He said the Council would consider entering into the Arizona One settlement.

City Attorney Emery said this was a partial proposed resolution to the opioid litigation. He said the proposed Memorandum of Understanding (MOU) was technically not a settlement, but an agreement to agree. He said the city would be a signatory party to the MOU and the settlement terms would be worked out. He said if the terms were not agreeable to the Council, the agreement would end at that time. He said the city was not bound at this point and the final terms had not yet been agreed upon. He said they believed it was a step in the right direction, and said approval to enter into the MOU was recommended.

City Manager Cotter said under the terms of the agreement, the city's portion of the settlement would be about \$2 million which would not fix a generational problem in terms of treatment, education, and law enforcement. He said the county was slated to receive more than \$10 million and said there had to be a greater discussion with the county as to how those dollars were distributed. He said the funds did not specifically address the extreme and disproportionate amount of opioid drugs dispensed in this county.

Council Member Zehri said the Council should move forward with the proposal.

Council Member Clark said the state would receive about \$400 million from this settlement and Mohave County's share would only be about 5 percent of that. He said it was a travesty to only look at a \$2 million payout out of a nationwide bucket of \$26 billion. He said they would continue to negotiate the settlement terms. He said they were not locking themselves into anything and it was as good as they could do at the present time.

Council Member Clark asked if anyone from the public wanted to speak.

Royanne Ortiz said Proposition 207 passed, and said more addiction problems would be created with the legalization of marijuana.

Billy Pershing asked about the management of any potential funds received.

City Manager Cotter said they could create a task force but it should be "ever-lasting" to spend more dollars over a period of many years. He said \$2 million would be here and gone quickly.

MOTION: Council Member Bruck made a motion to direct staff to enter into the "One Arizona" Opioid Settlement Memorandum of Understanding. Council Member Wegmann seconded the motion.

VOTE: AYES: Brady, Bruck, Brummett, Clark, Wegmann, Zehri NAYS: None
 ABSENT: D'Amico

MOTION CARRIED

Other Business

4. Discussion and possible action to authorize a budget transfer in the amount of \$32,202.00 for a vehicle purchase to the applicable budget account. (City Manager Cotter)

City Manager Cotter said the vehicle would replace the Chief Building Official's 2008 truck. He said the replacement vehicle was a 2018 Ford Explorer and said significant budget savings had been realized from the vacant Assistant Building Official position.

Council Member Clark asked if anyone from the public wanted to speak. No one from the public spoke.

MOTION: **Council Member Wegmann made a motion to authorize a budget transfer in the amount of \$32,202.00 for a vehicle purchase to the applicable budget account. Council Member Bruck seconded the motion.**

VOTE: AYES: Brady, Bruck, Brummett, Clark, Wegmann, Zehri NAYS: None
 ABSENT: D'Amico

MOTION CARRIED

5. Discussion and possible action to authorize the Fiscal Year 2021 budget items from the Deferred List; and approve a budget transfer from the General Services Budget in the amount of \$2,236,935.00 to the applicable departmental budgets. (City Manager Cotter)

City Manager Cotter said some budget items were deferred due to uncertain conditions when the budget was being prepared due to the pandemic. He said staff wanted to wait until the effects of COVID-19 could be further analyzed in relation to city revenue. He said the city had a positive first quarter for city sales tax and state shared revenues. He said city management did not forecast any considerable revenue decline due to the robust economy, strong housing market, and an increased interest in Bullhead City. He said if authorized by the Council, the deferred budget items would be moved to their respective departmental budgets.

Council Member Clark said the city had been very conservative in spending for more than ten years.

City Manager Cotter discussed some of the deferred budget items.

Council Member Bruck asked if there were additional items that were deferred.

City Manager Cotter said there were no additional deferred items, but some items were not included in this fiscal year's budget; for example, a new police boat; which would be included in next year's budget. He said additional items would have to come back to the Council for authorization.

Council Member Clark asked if anyone from the public wanted to speak.

Billy Pershing said he wanted to confirm that no borrowing would be required to cover the additional expenses.

City Manager Cotter confirmed.

MOTION: Council Member Bruck made a motion to authorize the Fiscal Year 2021 budget items from the Deferred List; and approve a budget transfer from the General Services Budget in the amount of \$2,236,935.00 to the applicable departmental budgets. Council Member Brummett seconded the motion.

VOTE: AYES: Brady (inaudible), Bruck, Brummett, Clark, Wegmann, Zehri
NAYS: None ABSENT: D'Amico

MOTION CARRIED

6. Discussion and possible action to authorize allocating \$50,000.00 from the Capital Improvement Plan through the Community Pride Advocates for parking lot improvements and the continued development of Gary Keith Park; and authorize the City Manager's execution of necessary agreement(s) with, and the disbursement of funds to the Community Pride Advocates. (City Manager Cotter)

City Manager Cotter said this allocation would continue the development of Gary Keith Park. He said this amount was budgeted in this year's Capital Improvement Plan as a grant match for Community Pride Advocates. He said under the leadership of Committee Chairwoman Olivia McCormick, Community Pride Advocates had acquired additional grants for the continued development of the park. He said improvements under this authorization were targeted for parking lot grading and lighting in preparation for the future paving of the lot.

Council Member Zehri asked about the amount of money spent to date on the park.

City Manager Cotter said the city's allocation was \$200,000, and said the biggest investment was the future pavilion. He said millions of dollars would be required to finish the park, and said the city's portion had been leveraged with vendor and private donations.

Council Member Clark asked if anyone from the public wanted to speak. No one from the public spoke.

MOTION: Council Member Bruck made a motion to authorize allocating \$50,000.00 from the Capital Improvement Plan through the Community Pride Advocates for parking lot improvements and the continued development of Gary Keith Park; and authorize the City Manager's execution of necessary agreement(s) with, and the disbursement of funds to the Community Pride Advocates. Council Member Zehri seconded the motion.

VOTE: AYES: Brady, Bruck, Brummett, Clark, Wegmann, Zehri NAYS: None
 ABSENT: D'Amico

MOTION CARRIED

COUNCIL REQUESTED ITEMS

None

ADJOURNMENT

There being no further business to come before the Council, Council Member Clark declared the meeting adjourned at 6:58 p.m.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct record of the regular meeting of the City Council of the City of Bullhead City held on the 1st day of December 2020. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 15th day of December 2020.

Susan Stein
Susan Stein, MMC, CPM, City Clerk