

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
595 NORTH C STREET
JANUARY 11, 2021
6:00 P.M.**

Staff Present: Harvey Krauss-City Manager; Stephen R. Cooper-City Attorney; Mary Myers-City Clerk; Jillian Childress-Management Assistant; Christopher Vasquez-Police Chief; Jon Vlaming-Community Development Director; Jerry Stabley-Planning Manager

I. CALL TO ORDER

Mayor Micah Powell called the meeting to order at approximately 6:01 p.m.

II. ROLL CALL

Council Members Present: Councilmember George Reuter; *Councilmember Sara Curtis; Vice Mayor Andrew Rodriguez; Mayor Micah Powell; *Councilmember Dan Snyder; Councilmember Jose Garcia; Councilmember Sylvia Guanajuato Rodriguez

*** Attended tonight's meeting via teleconference.**

Council Members Absent: None

III. INVOCATION

Pastor Charlie Joe Payne gave the invocation.

IV. PLEDGE OF ALLEGIANCE

Councilmember Sylvia Guanajuato Rodriguez led the Council and the public in the Pledge of Allegiance.

V. PUBLIC APPEARANCES

A. Scheduled – None

B. Unscheduled – None

VI. REPORTS AND ANNOUNCEMENTS

A. Council Members' Announcements

1. Vice Mayor Rodriguez thanked the staff and Council for the beautiful water tower lighting ceremony on December 30. He said the lighting of the water tower was well received by the residents and by other communities. Vice Mayor Rodriguez said he has received emails as far away as Nebraska inquiring about how something like this could be done in their city.
2. Councilmember Reuter said he also received positive feedback from numerous people around the world and from the military visiting the airport.

Councilmember Reuter thanked Mr. Krauss and the police department for their quick response in apprehending a contractor from Casa Grande caught illegal dumping. He said the act was observed by a resident who contacted him. Councilmember Reuter encouraged the public to contact the police if they witness this type of illegal activity. The more people the police catch doing this, the cleaner Eloy would be.

B. Mayor's Announcements

1. Mayor Powell updated the Council and public on the number of COVID-19 cases and deaths in Pinal County and Eloy. He said there has been a total of 2,467 cases reported in Eloy; Pinal County reported a total of 33,638 cases and 418 deaths. The total number of COVID tests taken in Pinal County is 210,549, and as of today, there were 484 new cases with no reported deaths (deaths that occurred over the weekend are not reported until Tuesday). Mayor Powell said there was a total of 1,515 new tests reported today. He said vaccines are available to Pinal County residents who are in the 1B group. Appointments can be made online through the Pinal County health department website, however cautioned that appointments going very fast.
2. Mayor Powell reported that SCMPO will present an update of organization's scope of work to the Pinal County Board of Supervisors on Wednesday, January 13, 2021.
3. Governor Doug Ducey gave the state of the state address where he talked about the violence that occurred on January 6, in Washington, D.C. and COVID-19.
4. Mayor Powell announced that the Council and city staff would be having a retreat on January 23, 2021.

5. Mayor Powell recognized Mrs. Myers for achieving the designation of Master Municipal Clerk (MMC) from the International Institute of Municipal Clerks (IIMC) organization.

C. City Manager's Announcements

1. A ribbon cutting ceremony for the grand opening of Xpress Fuel truck stop is January 20, 2021, at 10:00 a.m.
2. A Council/staff retreat is scheduled for Saturday, January 23, 2021. Mr. Krauss said he would provide the Council and the public with more details shortly.

Mayor Powell noted that the retreat is scheduled to occur in-house, however, due to COVID, the retreat may be conducted via Zoom to allow public attendance.

VII. CONSENT AGENDA

- A. Approval of Minutes: 12/14/2020 (regular)
- B. Approve a contract with the Department of Corrections, Rehabilitation and Reentry on behalf of the Florence West Correctional & Rehabilitation Facility to provide an inmate labor program with the City of Eloy.
- C. Ratification of expenditure of funds for issuance of special compensation checks to employees in December 2020.

Motion by Councilmember Garcia, seconded by Councilmember Reuter to approve the Consent Agenda as presented, passed unanimously by roll call vote.

VIII. BUSINESS

- A. APPOINTMENT OF COUNCIL MEMBERS AS EX OFFICIO MEMBERS TO VARIOUS CITY BOARDS AND COMMISSIONS, AND APPOINTMENT OF COUNCIL MEMBERS TO THE CEMETERY BOARD AND INFRASTRUCTURE SUBCOMMITTEE.**

Staff Cover Sheet Report: *In accordance with the discussion at the Council's work session on January 4, 2021, Council to make the following appointments to City boards and commissions:*

*Board of Adjustment - Ex officio Member - Vice Mayor Andrew Rodriguez
Board of Appeals - Ex officio Member - Council Member Jose Garcia
Cemetery Board - Regular Members - Mayor Micah Powell, Vice Mayor Andrew Rodriguez, and Council Member Sylvia G. Rodriguez
Planning & Zoning Commission - Ex officio Member - Council Member Sara Curtis
Municipal Airport Advisory Board - Ex officio Member - Council Member George Reuter*

Infrastructure Subcommittee - Mayor Micah Powell, Vice Mayor Andrew Rodriguez, and Council Member Dan Snyder

The Mayor and Council reviewed the membership composition of all City boards and commissions at its work session on Monday, January 4, 2021. Council appointments to the Board of Adjustment, Board of Appeals, Cemetery Board, Planning & Zoning Commission, Municipal Airport Advisory Board, and Infrastructure Subcommittee were discussed and appointments were recommended. Mayor Powell automatically assumes a seat on the Pension Board.

Based upon discussion at the work session, staff will be providing Council with a proposal to restructure the purpose and composition of the Downtown Advisory Commission, Historic Preservation Committee, and Leisure Services Advisory Board. In addition, a dissolution of the Industrial Development Authority, Library Advisory Board, Municipal Property Corporation Board of Directors, and Utilities Advisory Board will be recommended.

FISCAL IMPACT: N/A

Mr. Krauss briefly reviewed the January 4, 2021, Council work session where Council discussed the selection of ex officios to boards and commissions as well as the activity level of all city boards and commissions. Mr. Krauss stated that based on Council discussion, some boards would be restructured and some would be dissolved (listed in his staff report). He conveyed that he plans to bring these items before Council at a future meeting for consideration.

Vice Mayor Rodriguez asked Mr. Krauss would staff notify board members that serve on the boards that Council is recommending to be dissolved.

Mr. Krauss said yes, all board members would be notified.

Councilmember Guanajuato Rodriguez said she and Councilmember Curtis both requested to be on the Planning and Zoning Commission. However, she noticed that the recommendation is to only appoint Councilmember Curtis.

Mr. Krauss conveyed that the Commission only has one ex officio.

Mayor Powell wanted to know how long it would take staff to combine the boards that were discussed at the work session and bring to the Council for approval.

Mr. Krauss said it would take approximately 30 to 45 days before staff would bring the combined boards to the Council.

Councilmember Snyder asked Mr. Krauss to briefly explain to the newer members of the Council the role of an ex officio.

Mr. Krauss gave a brief overview of the purpose of an ex officio.

Mayor Powell said he would like the ex officios to give a very brief report (at Council meetings) when their respective boards and commissions meet.

There being no further questions, Mayor Powell called for a motion.

Motion by Vice Mayor Rodriguez, seconded by Councilmember Garcia to appoint Councilmembers as ex officios to various boards and city commissions as stated in the staff report submitted by Mr. Krauss, passed unanimously by roll call vote.

B. COUNCIL TO REVIEW AND CONSIDER SELECTING THE LANDSCAPE CONCEPT FOR THE FRONTIER STREET COMMUNITY TREE PROJECT.

Staff Cover Sheet Report: *Council to review and consider selecting the landscape concept for the Frontier Street Community Tree Project.*

The intent of this project is to design a street tree theme for Frontier Street and prepare the landscape plan and irrigation plan and construction documents. Once the construction documents are prepared, the project can be bid (with Council approval) and constructed. The initial project area is located on the south side of Frontier Street between Myers Boulevard and Stuart Boulevard (approximately 2,000 lineal feet). This project was identified by a City resident and supported by one of our council members. It is identified as a project within the City's Capital Improvement Program and is intended to achieve the following objectives:

- *Improve air quality through carbon capture*
- *Reduce storm water runoff through increased infiltration*
- *Reduce the urban heat island effect*
- *Enhance the aesthetic natural environment*
- *Provide a welcoming gateway to assist with economic development efforts*

The landscape architecture consulting firm previously retained for this project prepared three alternative designs (which are attached) for a segment of Frontier Street to show the tree types selected, their spacing and their growth characteristics (which is attached). These three alternatives were presented for public review at an open house held on December 3, 2020 in the Community Room at City Hall. These three alternatives all include low water use trees and consist of the following:

- *Desert Oasis-uses trees that respond to the Sonoran Desert environment and contribute spring color*
- *Agricultural-uses trees that reflect the agricultural history of the area and contribute fall color*
- *Small Trees-uses trees that are more monochromatic and have limited color*

Due to the low turnout, Council recommended that staff create and administer an online survey to allow for additional community input into their selection of the final design. Over the past month, the online survey has received 109 submissions (as of January 5, 2021), which have been tabulated and weighted accordingly. The Desert Oasis alternative captured the most support (255 weighted average), followed by Agriculture (216 weighted average) and Small Tree (183 weighted average). In addition, questions were posed about any modifications to the design desired by the respondents (the majority indicated that no changes were desired) and whether the respondent liked/disliked the existing oleander shrubs located along the south side of Frontier Street (65% liked and 35% disliked). Respondents also provided comments in the survey. These comments and the scores are attached for review and reference. Please note that due to the limited response allowed on the survey instrument (100), staff had to close the first survey and open a second edition to allow additional community input.

- *If one or a combination of the alternatives is approved by Council, Staff intends to direct the landscape architect to:*
- *Prepare an initial cost estimate of the selected conceptual plan.*
- *Prepare the draft construction documents including landscape plan, irrigation plan, details and notes and any other supportive documentation necessary for construction.*
- *Revise the draft construction documents as per City Staff review to create the final construction documents package suitable for bidding purposes.*
- *Serve as a technical resource to answer questions during the bidding process.*

FISCAL IMPACT: *The preparation of landscape and irrigation design and construction documents were approved by City Council through the contract to retain Neill + Young and Associates on October 12, 2020. The funds for construction are identified as the Main Street Landscape Enhancement in the City's Capital Improvement Plan. It has a budgeted amount of \$30,000*

Mr. Vlaming provided the Council and the public with a PowerPoint presentation of three landscape designs (*Agriculture, Desert Oasis, Small Trees*) for the Frontier Street Community Tree Project. Mr. Vlaming also discussed the results of an online and in-person survey from the public about the designs. He said based on the surveys the *Desert Oasis* design received the most votes.

After his presentation, Mr. Vlaming introduced Mr. Todd Neill, landscape architect from Neill + Young and Associates, who along with him fielded questions from Council about the landscape designs.

Vice Mayor Rodriguez and Councilmember Guanajuato Rodriguez both voiced their support for the *Agriculture* design.

Mayor Powell conveyed that *Desert Oasis* is the most popular with the public, however it is up to Council to either take the suggestion, select another design, or mix and match the designs.

Councilmember Garcia said city hall has Texas Mountain Laurel trees and would like to see the same type incorporated into the Frontier Street project.

Councilmember Curtis conveyed that she talked to several residents about the designs and suggested taking the *Agriculture* design with the Pistacia trees and substitute the oleanders for the Texas Mountain Laurel as another vegetative element in the scheme. She also recommended incorporating some desert plants that are native to (inaudible).

There being no further questions or comments from the Council, Mayor Powell called for a motion.

Motion by Vice Mayor Rodriguez, seconded by Councilmember Garcia to select the "*Agriculture*" landscaping scheme and replace the oleanders with Texas Mountain Laurel, passed unanimously by roll call vote.

C. PRESENTATION AND DISCUSSION ON PROPOSED RESTRICTIONS ON RECREATIONAL MARIJUANA FACILITIES AND USE AS PERMITTED WITH THE VOTER APPROVAL OF PROPOSITION 207: SAFE AND SMART ARIZONA ACT.

Staff Cover Sheet Report: *Council to review and discuss proposed restrictions on Recreational Marijuana facilities and use as permitted with the voter approval of Proposition 207: Safe and Smart Arizona Act.*

Proposition 207, the Safe and Smart Arizona Act, was passed by Arizona voters on November 3, 2020, allowing for the sale and consumption of recreational marijuana. Due to the wide range of issues that are created by its passage, city staff has identified preliminary regulations for the Council's consideration.

Parameters of the New Law

- Individuals that are 21 years and older can grow no more than six marijuana plants in their house provided the plants cannot be viewed by the public and are in a lockable area.*
- The AZ Department of Health Services will be developing rules and regulations not addressed in Prop. 207.*
- Prop. 207 does not allow the smoking of marijuana in a public place or open space, or the consumption of marijuana products while operating a vehicle.*
- An employer can impose a prohibition on its employees use of recreational marijuana and marijuana products.*
- It is still a felony under Federal statutes to possess and use marijuana.*

- *According to Federal law, anyone using or possessing marijuana is prohibited from possessing or owning a firearm.*

Issues Related to the Zoning Ordinance

The Act allows proposed recreational marijuana establishments to apply for a license from the Arizona Department of Health Services (DHS). Marijuana establishments include all of the following: retail, cultivation and manufacturing of marijuana products. Establishment owners can choose one, two or all three. However, there is no guarantee that the owner will engage in the sale (retail) of products. This provision represents a major change from the medical marijuana laws that allowed the City to create separate regulations for dispensaries, cultivation and infusion of medical marijuana. The Act also places restrictions on how localities, which are defined as Cities, Towns or Counties, can regulate marijuana establishments. The text of the Act states: "A locality may not enact any ordinance, regulation or rule that is more restrictive than a comparable ordinance, regulation or rule that applies to nonprofit medical marijuana dispensaries." However, the City may enact regulations that are more lenient.

The current medical marijuana ordinance requires that all medical marijuana dispensaries may be approved under a Conditional Use Permit (CUP). Property owners are only allowed to apply for a CUP in the following zoning districts:

- *General Commercial District (C-2)*
- *Business Park (BP)*
- *Light Industrial (I-1)*
- *General Industrial (I-2)*

The current ordinance also specifies that medical marijuana dispensaries shall not be located within 1,320 feet of: the same type of use, residentially zoned property, a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, or public community center.

Staff initially proposed that the City regulations for recreational marijuana establishments mirror the rules for medical marijuana dispensaries.

City Council Feedback

The City Council held a work session to discuss Recreational Marijuana on December 7, 2020. Council discussion identified the following:

- *Allowing Marijuana Establishments to locate in more locations than Code currently allows for medical marijuana dispensaries*

- *Discussed allowing Marijuana Establishments on Main and Frontier Streets and in Toltec*
- *Identified that the 1,320-foot separation distance may be too large for some uses proximate to proposed Marijuana Establishments*
- *Expressed a desire to maintain some separation among Marijuana Establishments and schools and homes*
- *Council was not as concerned about distancing Marijuana Establishments from churches and residentially zoned vacant land*
- *Supported the control of Recreational Marijuana Establishments with Conditional Use Permits*

Draft City Code: General Regulations

There are several enforcement issues that are not covered under the Act. There are no regulations for consuming marijuana on City property. There are prohibitions on smoking marijuana in public places and open spaces, but no mention of the other ways it can be consumed. To address these issues, Staff recommends that the following sections be added to the City Code, Chapter 13: Offenses and Miscellaneous Law Enforcement Provisions.

13-28: MARIJUANA:

13-28.1: DEFINITIONS:

CONSUME MARIJUANA, MARIJUANA, OPEN SPACE, PUBLIC PLACE (Please see attached ordinance for definitions)

13-28.2: CONSUMPTION OF MARIJUANA:

The consumption of marijuana on City owned property, in a public place or open space is prohibited.

Penalty Imposed: Any person found guilty of violating any provision of this code, except as otherwise provided in this code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

Draft City Code: Zoning Ordinance

Conditional Use Permit

Staff is recommending that Marijuana Establishments cannot operate without a Conditional Use Permit. The Act mandates that properties with the following zoning be allowed to apply:

- *General Commercial District (C-2)*
- *Business Park (BP)*
- *Light Industrial (I-1)*

- *General Industrial (I-2)*

Staff is also recommending that property owners with Neighborhood Commercial District (C-1) zoning be allowed to apply. A majority of the parcels with C-1 zoning in the City is located in Downtown, and especially along the north side of Frontier Street. Allowing these C-1 property owners to apply for a conditional use permit will meet the Council's goal of allowing Frontier Street as a location where this use may be appropriate.

Minimum Separation Requirements

Based on the feedback from the City Council, staff is recommending the following minimum building separations measured from Marijuana Establishments and:

- *Residences- 25 feet from building to building*
- *Preschool, kindergarten, elementary or secondary school, public park, or public community center-100 feet from building to building*
- *High School- 1,320 feet from building to building*

City staff would like the Council to consider these recommendations, and if appropriate confirm them (or alternative standards). In this manner, appropriate augmentation of the Zoning Code may be drafted for formal consideration and approval. Such guidance is necessary for Staff to accept, Planning & Zoning Commission to consider, and City Council to decide the outcome of anticipated applications for Recreational Marijuana establishments in the future.

FISCAL IMPACT: *If a retail marijuana establishment is located in Eloy, the City will be able to collect regular sales tax on sales to consumers. The City will also receive its regular share of state shared transaction privilege tax. The Act does not allow the City to impose an excise tax.*

Mr. Stabley gave a PowerPoint presentation to review Council input from the December 7, 2020 work session on Prop 207 - recreational marijuana. Mr. Stabley also reviewed proposed draft regulations and the proposed timeline for implementation.

Councilmember Reuter was concerned about the 1,320 foot separation from a dispensary to an elementary or high school building or facility. He stated that the number is an arbitrary number that the staff not proven to be a safe distance. Councilmember Reuter voiced that as the city grows, the 1,320 foot separation could prevent future high schools from renting or building in certain areas of the city.

Councilmember Snyder said he is not only concerned about the number of dispensaries that would be allowed in the city, but also where the dispensaries would be allowed to set up, and how an area would appear if there are bars and strip clubs

located in the same area. Councilmember conveyed that the Council needs to take this into consideration and not rush into this.

Mr. Stabley made note of Council's comments.

There being no further questions, Mayor Powell closed the discussion.

IX. EXECUTIVE SESSION

Mayor Powell called for a motion to go into Executive Session.

Motion by Vice Mayor Rodriguez, seconded by Councilmember Guanajuato Rodriguez to hold an Executive Session at approximately 7:24 p.m., for approximately one hour with the city attorney, city manager, police chief, and city clerk (note taking) for:

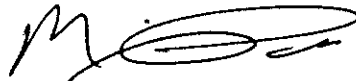
Discussion or consultation with City Manager, City Staff and the attorneys of the public body in order to consider its position and instruct its Staff and attorneys regarding the public body's position regarding pending claims or contemplated litigation or in discussions conducted in order to avoid or resolve litigation and legal advice concerning claim of family of Javier Moreno, pursuant to A.R.S. '38-431.03 (A) (3) and (4).

Motion passed unanimously.

Mayor Powell reconvened the public meeting at approximately 8:29 p.m.

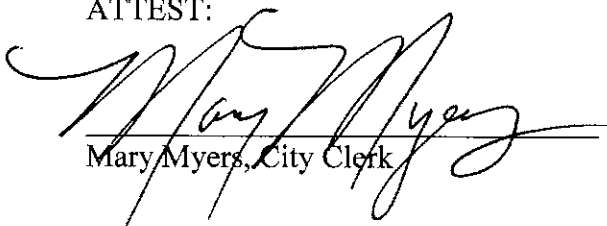
X. ADJOURNMENT

There being no further business, Mayor Powell adjourned the meeting at approximately 8:29 p.m.



Micah Powell, Mayor

ATTEST:


Mary Myers, City Clerk