

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
NOVEMBER 16, 2011
5:30 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

INVOCATION/PLEDGE

Chuck Stewart, Pastor of Calvary Chapel of Yuma, gave the invocation. **Gregory K. Wilkinson**, City Administrator, led the City Council in the Pledge of Allegiance.

ROLL CALL

Councilmembers Present: Stuart (left at 6:53 p.m.), Mendoza (left at 6:53 p.m.), McClendon, Brooks, Johnson, and Mayor Krieger
Councilmembers Absent: Beeson
Staffmembers Present: City Administrator, Gregory K. Wilkinson
Various Department Heads or their representative
City Clerk, Lynda L. Bushong

FINAL CALL

Mayor Krieger made a final call for the submission of Speaker Request Forms from members of the audience.

PRESENTATIONS

I. CALL TO THE PUBLIC

Ginger Jane Hammack, 6293 E. 45th Street, stated that a decade ago a group of people joined together and accomplished their goal of water fluoridation, but today she is asking the City Council to join in immediately halting water fluoridation. Some say the greatest gift in life is life, but knowledge is far greater, as it is vital to growth. The fluoride Yuma receives costs the City \$20,000/year to slowly poison its City residents with toxic waste. Fluoride is used as an insecticide in roach killer, 1/10 of an ounce will cause death, and it is more poisonous than lead and slightly less poisonous than arsenic. Recently 2,571,500 people around the world have been freed of forced water fluoridation according to the Fluoride Action Network. In her opinion, fluoridating City water is an act of genocide; it does not help people's teeth and supports the problems of waste disposal. Today she brings forth knowledge that is vital to the health of individuals and the security of our nation's freedoms.

Moses Medina, 6293 E. 45th Street, stated the three basic types of fluoride the residents of the City of Yuma are exposed to are: Calcium Fluoride, Sodium Fluoride, and Fluorosilicate Acid. Calcium Fluoride is naturally occurring; Sodium Fluoride is FDA approved and found in toothpaste, mouthwash, and medications, such as Prozac; and, Fluorosilicate Acid is used by the City to fluoridate the water. According to the Material Safety Data Sheet, Fluorosilicate Acid is hazardous waste and cannot be dumped in a regular landfill because of its toxicity, which means, in essence, there is poison in the tap water. The voter

approved initiative to fluoridate City water did not create or amend an ordinance, it is not a law, but it is a resolution the City Council can repeal. The Declaration of Independence states the reason for government is to secure peoples rights of life, liberty and the pursuit of happiness. By adding fluoride to the water, City Council is infringing on the liberty of the poorest people in the community who cannot afford to buy expensive fluoride filters. There will not be happiness when the rates of dental fluorosis, skeletal fluorosis, and osteosarcoma begin to rise in the community.

Johnson asked the City Administrator and the City Attorney to explain the initiative process, and how fluoridation of water started in the City of Yuma.

Moore stated the fluoridation of City water was not initiated by the City County, nor by City staff; it was an initiative created by a citizens group subsequent to the City declining to add fluoride to the water. The citizens group circulated petitions and collected enough signatures to put the measure on the ballot, which was approved by the City of Yuma voters.

II. MOTION CONSENT AGENDA

Motion (Brooks/Mendoza): To approve the Motion Consent Agenda as recommended. Voice vote: **approved 6-0.**

A. Approval of minutes of the following City Council meetings:

Regular Worksession	August 2, 2011
Regular Worksession	August 16, 2011
Regular City Council Meeting	September 21, 2011

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). (Attny)
2. Approve an Interim Permit and New Beer and Wine Store (#10) Liquor License application submitted by Patrick Wesley Rook agent for Barnicle Enterprises, Inc. dba Barney's #40 located at 351 E. 16th Street, Yuma, Arizona. (LL11-14) (Admin/Clerk)
3. Award to the lowest responsive/responsible bidder for Auctioneer Services, a one-year contract with the option to renew for four additional one-year periods, for the disposal of obsolete and surplus property as needed to A Smart Auctions, Yuma, Arizona. (Bid #2012-20000089) (Fin/Pur)
4. Award to the lowest responsive/responsible bidder for Streetlights: Standard and Non-Standard Repairs, Materials and Full Replacements a one-year contract with the option to renew for four additional one-year periods, depending on the appropriation of funds and satisfactory performance, at an estimated first-year cost of \$30,000.00, which may exceed \$50,000.00 over the

five-year life of the contract, as needed with the following firm: Westmoor Electric Inc., Yuma, AZ. (Bid #2011000145) (PW/Streets)

5. Award to the lowest responsive/responsible bidders, a one-year contract for Portable Toilet Rental, Service, Purchase, and Delivery, with the option to renew for four additional one-year periods depending on the appropriation of funds and satisfactory performance at an estimated annual cost of \$21,000.00 to: All Waste Sanitation Inc., Yuma, Arizona; and, P.U. Septic Service Inc., Yuma, Arizona. (Bid #2012000071) (Parks & Rec)
6. Authorize the City Administrator to execute an agreement with Diamond Sports and Entertainment, Inc. for use of the Ray Kroc Baseball Complex for Winter League Play for three consecutive seasons, 2012-2014. (Parks & Rec/Civic Center)
7. Authorization to execute contracts with the Arizona Governor's Office of Highway Safety for highway safety projects in accordance with Arizona's Federal Fiscal Year 2012 Highway Safety Plan. (YPD/Patrol)
8. Authorize settlement in Lucero v. City of Yuma et al. (Attny)

III. RESOLUTION CONSENT AGENDA

Motion (Johnson/Mayor Krieger): To remove Resolution R2011-34, at the request of the applicant. Roll call vote: **approved** 6-0.

McClendon requested R2011-35 be removed for separate consideration.

Motion (Johnson/Mendoza): To adopt the Resolution Consent Agenda as recommended, with the exception of R2011-34 and R2011-35.

Bushong displayed the following titles:

Resolution R2011-33

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Development Agreement with the owner of real property located at 889 E. 32nd Street (Applicant: Bill Alexander Automotive Center, Inc. - Toyota) (DCD/Planning)

Resolution R2011-36

A resolution of the City Council of the City of Yuma, Arizona, declaring and adopting the official canvass of the results of the General/Special election held on November 8, 2011 (Admin/Clerk)

Roll call vote: **adopted** 6-0.

Resolution Removed for Separate Consideration

- C. **Resolution R2011-35** Intergovernmental Agreement With State of Arizona for a grant in the amount of \$749,921.00, to provide scoping documents, design and construction for the West Main Canal Multi-Use Pathway. (Eng/Admin)

McClendon stated that she received calls regarding the Intergovernmental Agreement, but wasn't able to provide answers. She understands the State will be the primary funding source and the City will contribute \$48,329 for the project, but asked for clarification on the purpose of the project. **Wilkinson** confirmed the amount stated as the City's funding match for the project. **Johnson** explained that a bicycle multi-use pathway plan is part of the City's transportation plan. The intergovernmental agreement is for scoping, design, and construction of a pathway along the West Main Canal, which 95% of the project will be paid for through a Federal Enhancement Grant. The City's match of funding is necessary in order to qualify for the grant. The grant money will facilitate the City to complete a segment of the bike path plan that has been in the plan for 15 years. In addition, the project will be injecting nearly \$800,000 worth of construction activity into the community. If the City does not accept the grant, it goes back to the State for redistribution to other communities. **McClendon** stated she requested the ordinance be pulled for separate consideration due to questions she received, and she wanted to shed some light on the fact that this is a project that has been ongoing since before she was on City Council. There are currently bike paths from 1st Street to 8th Street and 16th Street to 24th Street. This grant will help finish the project.

Stuart noted that the canal banks are currently dirt and are oftentimes muddy, which gets tracked up to the streets. The project is a great idea and it would help cut the City's dust emission, and provide people access to areas along that canal that currently are not accessible. **Johnson** added the bike paths are approximately 10 to 12 feet wide and are lighted, which provides a safer environment for someone to walk, jog or bike ride versus along the street; and the lighted paths provide added security to an adjacent neighborhood. The bike path goes all along the West Main Canal and has several branches; this project will provide an additional branch.

Motion (McClendon/Stuart): To adopt Resolution R2011-35, Intergovernmental Agreement with the State of Arizona.

Bushong displayed the following title:

Resolution R2011-35

A resolution of the City Council of the City of Yuma, Arizona, authorizing the execution of an Intergovernmental Agreement with the State of Arizona concerning a Transportation Enhancement Grant for the scoping, design and construction of the West Main Canal multi-use pathway
(Eng/Admin)

Roll call vote: **adopted** 6-0.

IV. ADOPTION OF ORDINANCES CONSENT AGENDA

Motion (McClendon/Brooks): To adopt the Ordinance Consent Agenda as recommended.

Bushong displayed the following title:

Ordinance O2011-40

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that a certain parcel of real property, hereinafter described, be acquired by the City of Yuma, by gift, easement, purchase or under the power of eminent domain, for the reason that such property is required to improve the public roadway and utility infrastructure and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of said parcel of real property

(Right-of-way acquisition: 8th Avenue between Oak Drive and Park Lane) (Eng/Admin)

Roll call vote: **adopted** 6-0.

V. INTRODUCTION OF ORDINANCES - none

VI. PUBLIC HEARINGS

A. **Land Use Assumptions and Infrastructure Improvements Plan** – Hold public hearing on the proposed Land Use Assumptions and the Infrastructure Improvements Plan for preparation of updated Citywide Development Fees. (Eng/Dev Eng)

Mayor Krieger opened the public hearing at 5:54 p.m.

Speakers

Troy Eckard, 13489 S. Avenue 6^{3/4}E, owner of Eckard Commercial Construction, spoke in regards to Citywide Development Fees. When he first started building in Yuma, he considered the Citywide Development Fees to be manageable and comparable with other jurisdictions. The fees were attractive for developers, which is what brought him to Yuma to build new coolers. Over a period of ten to twelve years, there were a lot of new coolers being built in Yuma which brought in, and continues to bring, a lot of jobs. The coolers generate a lot of sales, which subsequently create a lot of sales tax. Over this period of time, the development fees went from being manageable to a deal killers. The City of Yuma is not a preferred place to build due to the high rate of impact fees assessed on commercial projects, and this has created the perception that the City is not business friendly. Regardless, Yuma is a great place to live and through his business he tries to promote the City of Yuma, and Yuma County, as a great place to build. There have been a lot of arguments in the past stating there isn't anything that can be done about the fees. However, Senate Bill (SB) 1525 gives the City the opportunity to review the development fees and change the ever growing fee structure. He asked the City Council to review how the fees are configured and challenge the assumptions that the consultant has made. The City Council has the choice of encouraging growth and development in the community. He agrees with the statement "growth must pay for growth," but stated there are reasonable fees that can be assessed or growth will cease. There have been several potential projects that decided to go elsewhere after seeing the current development fees schedule. He continues to build coolers, however, only one is in Yuma and the rest are out-of-town. He encouraged the City Council to consider balancing the need for fees against the need of encouraging growth in Yuma.

Mayor Krieger asked Eckard if he is familiar with the current adjustments to the fee structure. **Eckard** stated he does not have the current numbers, and in recent meetings it was stated the numbers were not available yet. **Wilkinson** stated that Eckard had asked if staff knew how much the fees would be changed for a particular project, but the answer is unknown as a significant computation would be required. He noted the fee structure is posted, and generally will be going down with the exception of two. **Eckard** stated that he would like to see the numbers and he understands that the fees are calculated on a variety of criteria. However, a decrease to one area may not reflect on all projects, and this needs to be considered.

McClendon asked Eckard if he had seen the presentation at last night's worksession regarding impact fees. **Eckard** stated he had not seen the presentation. **McClendon** noted the fees have gone down and suggested he review the information. **Eckard** inquired how much the fees have decreased for commercial development. A decrease of 10% or 15% will not be sufficient to make a difference.

Harvey Campbell, 4155 E. County 13 ½ Street, president of BetterYuma.org, stated BetterYuma.org has taken a position to work with the City Administrator and staff to amicably resolve issues surrounding Citywide Development Fees in both residential and commercial developments. He has reviewed three versions of the proposed Land Use Assumptions and Infrastructure Improvement Plan (IIP) and stated that although he has been an attorney for over 35 years, the document is difficult to understand. The reason it was passed was because municipalities were taking advantage of developers and charging too much in development fees. BetterYuma.org hired Reliant Consulting, and interfaced with the City Administrator, TischlerBise, and City Engineering staff regarding impact fees, the Land Use Assumptions and IIP. It is their opinion that TischlerBise's previous model will not work as it does not adhere to SB1525. He urged the City Council to read and understand the documents before approving them. Single family residential development fees have gone down 33%, but they should have gone down 50%. Commercial development is affected more than the single family residential because the first time the fees were reviewed there was no emphasis to the commercial side. This is City Council's opportunity to become informed and make a reasonable decision. Upon meeting with TischlerBise, BetterYuma.org came to the conclusion that a citywide service area will not work, and is illegal under SB1525. TischlerBise predicts three new fire stations will be warranted; however, BetterYuma.org was able to convince the City Administrator only one will be needed, but when the revision came out, two fire stations remained in the plan. When TischlerBise was asked what the prediction was based on, they stated it was what the Fire Chief wanted. The intent of SB1525 is to mandate a substantial nexus on new development and define what benefit the development will receive. Attempting to create a level playing field for everybody in the City of Yuma is illegal; people living in Livingston Estates and Livingston Ranch shouldn't pay for a park on 6 ½ E because there is no substantial nexus for those people to drive ten miles to use the regional park. The assumptions are wrong in predicting a projected residential growth of 1.2%, it is about half of that; and a 2.1% annualized growth in the commercial is also incorrect, it should be .5%. He encouraged City Council to get involved and create a working environment with the general public and City staff, to make sure the Land Use Assumptions and IIP is correct.

Johnson indicated his support of growth paying for growth. Currently developers pay 70% of infrastructure needed for growth, and impact fees cannot be used for existing roadway deficiencies. Last night's presentation indicated the plan was based on a 2% per year growth. However, there is a problem with this since the City did not grow 20% in the last ten years, and will not grow 20% in the next ten years. Basing the assumptions on a 1% per year growth rate would still be optimistic. The growth rate is more likely to be .5% in the first five years. **Campbell** suggested a gradual scale starting at .5%, increasing to .75% then to 1% over ten years.

Johnson stated that considering the current recession, the future economic climate, and the present financial crisis in Europe, the City should be assuming a growth rate of .5% over the next ten years, which can be applied directly to traffic growth that may occur. This will also allow the identification of roadways that need to be improved and removal of the roadways that do not need immediate attention, which could reduce the development fees. It is not fair to be weathering a recession and not lean to a more conservative approach to the fees. By moving unnecessary projects outside the ten year plan, it would result in a reduction of costs for all concerned. He agrees with Campbell's suggestion of gradually increasing percentages. **Campbell** stated the past five years should be an indication of what a realistic growth pattern would be, but that is not how the figures were calculated. The City Council just passed a \$749,921 intergovernmental agreement with the State of Arizona; however, the City is going to charge new development for the same project, as outlined in the IIP under Parks – West Main Park. **Wilkinson** stated staff recognizes the oversight and will update the plan to reflect the change. The plan has been modified several times due to discussions and implementation of updates, and he expects more changes to come. Tonight's public hearing is to receive public input, not to approve the documents. Although he agrees that SB1525 is a difficult document, he believes that SB1525 stemmed from issues in Maricopa County as some areas were charging up to \$20,000 in fees for a residential home. In regards to the fire stations, staff considered two opposed to one because of the price to build is based on square footage, with an additional fire station the square footage increases, therefore, the fees decrease. Also, reducing the growth rate would actually drive the fees up because the building activity does not equate to the infrastructure being put in place, but City Council gets to make the final decision. **Campbell** stated that he was reluctant to speak to City Council today, but wanted to inform City Council that BetterYuma.org is trying to partner with the City, but it is incumbent upon City Council to become educated and knowledgeable on the documents as they are extremely important to the foundation of what the impact fees will be. **Wilkinson** agreed, and expressed appreciation for Campbell, and the others, for working with staff through this process.

Scot Mussi, 1225 N. 36th Street #1041, Phoenix, AZ, President of Reliant Consulting, representing BetterYuma.org, stated that the City of Yuma is one of the first cities in the state to review and modify their development fees in accordance with SB1525; however, other cities are starting to reevaluate theirs as well. The law only requires conformity of the fees until 2014, but the City of Yuma has taken an initiative to take a step forward. The law goes into effect January 1, 2012, and with additional adjustments the City will not make the 60-day deadline to make a decision on these documents. He urged the City to take full advantage of the 60 days to ensure the process is done right. SB1525 was put forth based on a model that has been passed in other states to define what cities and towns can charge for, and states there must be a tie between the infrastructure being provided and the development being served. Impact fees are needed and act as a tool to provide infrastructure. The City can't approve a development if it doesn't provide streets, police, and fire services within a reasonable time frame. Unfortunately some communities were using development fees as a tax, were not able to provide an estimated completion time frame, and projects would disappear out of capital plans even though impact fees were charged. The Land Use Assumptions specifically state what is going to be provided to the community and establishes proportionality for the community. If the Land Use Assumptions are reduced by half, the fee shouldn't go up. If the City tries to obtain too much infrastructure, the fee will not be justified and projects will not be provided for within the ten-year time frame. A Citywide service area was specifically addressed in the law because it has been abused; the substantial nexus language states that there has to be a physical presence required for the infrastructure. The CIP estimated that most of the projects will be built in the years 2019 through 2021, which brings into question whether or not the City will be able to provide these projects within the allotted timeframe and if not, the City will have to offer refunds to property owners. Additionally, the law requires the City to have

the ability to demonstrate what is planned and what will be provided within ten years. Under the proposed impact fees in the TischlerBise documents, the street fees is going to run a deficit of \$25 million. The document acknowledges that something needs to be recalibrated to ensure that those projects could be paid for in ten years. Growth needs to pay for growth, but it is also recognized that new growth generates revenue. In fact, growth is going to generate approximately \$78 million under the plan over the next ten years. Offsets acknowledged that 50% of the fees collected are going to be attributable to new growth and 50% is going to be attributable to existing growth, such as a park. However, the park that is being paid for by existing growth, or through a sales or property tax, needs an offset to ensure that new growth isn't paying twice, once through impact fees and again through property taxes.

Johnson stated he was on the Planning and Zoning Commission when the pro-rata infrastructure financing ordinance was developed, which included very specific service areas. There were several funds, but the money never accumulated enough to pay for the projects because the funds were tied to specific zones, which is what led up to the creation of the impact fee ordinance on a citywide basis. It is understandable to write a law applicable to Phoenix, as it is 20 miles from one side of the city to the other, but with the size of Yuma, it is not applicable to have specific zones. Yuma doesn't have any real soccer fields, but soccer games are played all over the City. Children from all over the City play on the fields. So, how can anyone argue that somebody new won't benefit from any given park?

Mussi inquired about the Pro Rata Infrastructure Financing ordinance. **Johnson** stated the ordinance created fees that acted as impact fees through categories that were broken down into sections. For instance, those businesses and residents in a certain area were assessed a fee for infrastructure in that area, but it was too complex, and created too many funds to accumulate money wasn't sufficient enough to complete projects, so it didn't work out. **Mussi** stated the rationale behind impact fees is there has to be a benefit derived from the fee. In other words, a project or service must be directly tied to the fee and a physical presence that would dictate a substantial nexus is laid out by the City and in the fire and parks plans. With those plans, the City could identify the radius of the area around the parks or fire stations. For instance, if the City of Yuma were going to build one police station, the physical presence would be that police station serving the entire community. There are ways to determine how service areas can be divided up, but it does have to be tied directly to a specific development in order charge a development fee.

McClendon stated the issue is complex, but in listening to Mussi, she has a better understanding. She agrees that City Council should take the full 60 days to make sure the plan is correct, as it will affect the City for several years.

Mussi reiterated that he doesn't feel anybody would disagree that impact fees are a viable tool to make sure that growth pays for the infrastructure that is needed, but make sure it's done lawfully.

Wilkinson stated the public hearing is just the first step and the process is expected to continue through to March. In all of the documents that have been revised, only one has raised fees, but the rest have been reduced. A number of projects have been eliminated from the plans and staff will continue to work with the group and make changes.

Mayor Krieger closed the Public Hearing at 6:41 p.m.

VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Mayor Krieger inquired as to when to expect the renaming of the cemetery on the agenda. **Wilkinson** stated it would be on the next City Council meeting agenda.

Motion (Mendoza/Stuart): To appoint John A. Stratton to an unexpired term on the Design and Historic Review Commission with a term expiration of December 31, 2012. Voice vote: **approved 6-0.**

Mendoza reported the following activities since the last City Council meeting:

- Yuma County Western Arizona Council of Governments Advisory meeting
- A proclamation for the Kennel Club of Yuma
- The Children's Festival of Arts
- Veterans Appreciation Day at Faith Baptist Church
- A proclamation for Hunger and Homelessness Awareness week
- The National League of Cities conference in Phoenix, along with Councilmember McClendon and Mayor Krieger
 - There were many workshops attended, including mobile workshops
 - He encouraged other Councilmembers to attend next year, or go online to the NLC website to review a synopsis of the presentations made.

McClendon reported attending the Children's Festival on Main Street, in which Parks and Recreation, and the Art Center did a great job; and, the National League of Cities conference in Phoenix last week. The conference offered a lot of workshops that focused on bringing the cities/towns together to discuss the essentials of what makes the cities/towns work. In addition, she proudly announced her membership in the Women of Municipal Government constituency group.

Mayor Krieger reported attending the National League of Cities Conference; the City of Yuma received an award for 50 years of membership. In addition Mayor Krieger received a silver certificate for training programs and seminars that he has attended. It is important to make contacts with other mayors in different parts of the country and evaluate where the City is at relative to others accomplishments. In addition to the National League of Cities Conference, he attended the Executive Board meeting for the State League on Friday, November 4; a Veterans Day Parade; a Port Authority meeting; a meeting with the Senior Adult Ministries at the Nazarene Church; and, a meeting today with the Customs and Border Patrol in regards to the next steps with the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program, which was implemented to attempt to reduce border wait times for card holders. In addition, he traveled to Rocky Point along with the Mayors of San Luis and Somerton and San Luis City Councilmembers to the grand opening of the International Airport. The City of Yuma donated fire equipment to two Mexican cities in an effort to help improve their emergency response resources.

VIII. SUMMARY OF CURRENT EVENTS

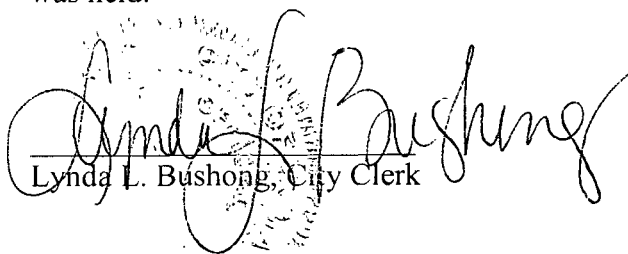
Wilkinson recognized the City's Finance Director, Pat Wicks for receiving Northern Arizona University's Graduate Student of the Year award. He also recognized the departments of Community Development and Information Technology for implementation of the EnerGov system, which is scheduled to go live on Monday. The program will allow the City to automatically track permits, code enforcement, plan reviews, building safety issues, and it will allow the public to check on the status of their project. Wilkinson further

acknowledged the following events coming up: Kid Cakes II, to be held at the Art Center from 10:30 a.m. to 11:30 a.m.; Turkey Trot, to be held at Gateway Park commencing at 8:30 a.m.; and, the Colorado River Crossing Balloon Festival to be held at Ray Kroc Stadium through out the weekend.

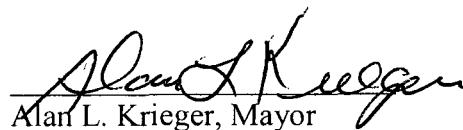
Mayor Krieger stated that he went to see the Union Pacific Railroad steam engine that is traveling through Arizona to Cheyenne, Wyoming, in an effort to help promote Arizona's Centennial. The train is hauling 20 cars and has the capability of driving 120 miles per hour, it will be leaving tomorrow morning stopping in Colton, California.

IX. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Krieger** adjourned the meeting at 6:55 p.m. No Executive Session was held.


Lynda L. Bushong, City Clerk

APPROVED:


Alan L. Krieger, Mayor

Approved at the City Council Meeting of:
<u>Jan 4, 2012</u>
City Clerk: <u>L. Bushong</u>