

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 Friday, January 11, 2019, in the Council Chambers, 1255 Marina Blvd., Bullhead City, Arizona.

**CALL TO ORDER**

Mayor Brady called the special meeting to order at 12:30 p.m.

**ROLL CALL**

Council Present

Brady, Bruck, D'Amico, Ring, Shutts, Wegmann

Council Absent

Clark

Staff Present:

CITY MANAGER: Toby Cotter

CITY ATTORNEY: Garnet Emery

CITY CLERK: Susan Stein

POLICE CHIEF: Brian Williamson

FINANCE DIRECTOR: Rudy Vera

**WAIVER MOTION**

Motion to waive the reading in full of all ordinances and resolutions presented for adoption at this meeting.

**MOTION:** Vice Mayor Ring 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, D'Amico, Ring, Shutts, Wegmann NAYS: None  
ABSENT: Clark

**MOTION CARRIED**

**CALL TO THE PUBLIC**

David Lords said Laughlin Ranch, Bullhead City, and Secret Pass were about to become famous. He said in 2008, Lords Productions created and produced an animated film called "The Legend of Secret Pass." He said the President of Lions Gate Films contacted him last month and informed him they obtained the distribution rights to the film. He said the film would be released on January 15th on several platforms. He said about twenty celebrities had participated in the making of this film; including Ron Perlman, Graham Greene, Joe Pantoliano, Cheryl Hines, and Frankie Muniz. He displayed photos of the Secret Pass, promotional posters, and played a video clip of the film. He said the release would be viewed by millions of people. He requested that people visiting Secret Pass take out any trash they brought in, and pick up trash left from other visitors.

Eva Corbett invited the public to attend "Yappy Hour" at the Black Mountain Bistro on January 17th to raise funds for Saving Animals in Need Together.

**ACTION AND DISCUSSION ITEMS**

1. Discussion and possible action to adopt Resolution No. 2019R-01. (City Manager Cotter)

City Manager Cotter said the Council would re-examine the EPCOR consolidated rate case, the findings, and the recommended opinion and order by Administrative Law Judge Belinda Martin. He said it was the desire of the city to attend the hearing before the Arizona Corporation Commission (ACC) on Tuesday, January 15th. He said this was one of the most important issues facing the residents as there were proposals of 30 to 45 percent rate increases. He said in the summary, Judge Martin recommended against consolidation as it was not reasonable, and said she recommended that revised stand-alone rates be adopted for EPCOR's eleven districts. He said the city had been fighting this rate case and unfair consolidation on behalf of the residents and rate payers since last summer. He said there were many differences between Bullhead City and the rest of the state as it related to consolidation. He said water conveyance costs, power costs, facilities, and current rates were vastly different. He said the administrative law judge agreed with Bullhead City that the consolidation was erroneous and should be rejected by the ACC. He said the city believed that city residents should not be supporting the water rates of much wealthier Arizona residents in Anthem, Scottsdale, and Paradise Valley. He said EPCOR continued to tell them that consolidation was the right thing to do for their customers. He said in August, Mayor Brady, Council Member Clark, and he traveled to the EPCOR corporate offices in Edmonton, Canada, to discuss a variety of things including the purchase of EPCOR's assets. He said EPCOR was not interested in selling to the city. He said they asked EPCOR if they would consider options as directed by the ACC. He said EPCOR had indicated they were directed by the ACC to present consolidation options. He said the ACC was presented with two options: a stand-alone rate, and a full eleven district consolidation. He said they had asked for other consolidation options that EPCOR would consider. He said shortly thereafter, EPCOR put together a Mohave County consolidated design option. He said the city asked EPCOR for their specific support when the Mohave County consolidation was submitted. He said EPCOR made it clear that EPCOR would support Bullhead City making such a proposal, but they continued to support full consolidation which was always the company's position in this case. He said their gentlemen's agreement was not a gentlemen's agreement. He said the City Council supported the Mohave County consolidation by pulling the condemnation measure from the November ballot and upheld their end of the gentlemen's agreement. He said EPCOR dismissed the city's request and never supported the Mohave County consolidation until yesterday. He said they basically lost the case in front of the ACC on full consolidation. He said yesterday EPCOR indicated it would support regional consolidation if the ACC did not support full consolidation. He said Bullhead City was enemy number one according to previous filings. He said the city was the fly in the ointment in this consolidated rate case and determined to be a very important piece of this consolidation. He said at the end of the day, Bullhead City rates would go up even if nothing else happened and the ACC voted on the judge's recommendation. He said they were looking at a 30 to

60 percent increase in different areas of the city. He said there was still great disagreement among all of the parties involved, and said it was believed that there was so much commonality between other cities and Bullhead City. He said the city was not a customer of APS, and was the most affordable city in Arizona with lowest utility rates. He said Scottsdale and Paradise Valley were far from that.

City Manager Cotter said the proposed resolution would rescind the city's support for a Mohave County consolidated rate plan in connection with EPCOR's water rate case before the ACC. He said Section 1 of the resolution stated that the Bullhead City Council's previous support for a Mohave County consolidated water rate plan as found under "Mohave County-Scenario 3" in Resolution No. 2018R-50 was hereby fully rescinded; Section 2 stated that the Bullhead City Council declared its intent to oppose excessive and/or not fair and equitable water rate increases; Section 3 stated that the Bullhead City Council further found that the issue of potential future state-wide consolidation continued to be of serious concern to the Council, and that upon a final determination by the ACC on the current and or future rate case, the Council would consider anew its previously expressed intent to condemn or otherwise acquire EPCOR's water assets in Bullhead City; and Section 4 stated that the City Manager and City Attorney were directed to take all reasonable actions in support of the declarations made above.

Mayor Brady said they had been fighting diligently to lower the proposed rates and fighting against the consolidation. He said when they appeared at the first ACC hearing; they learned that the ACC staff had already made the preliminary recommendation that full consolidation was in the best interest of the state, and said this was something the city could not accept whatsoever. He said, as an alternative to the full consolidation that was proposed, the Mohave County consolidated district was offered but it was late in the game. He said Bullhead City, North Mohave, North Havasu, and Willow Valley were the four districts outside of the Phoenix area that were originally designated to be a part of the eleven district consolidated area. He said the community could not afford the higher rates and said they were doing whatever they could to get the rates reduced. He said they would now rescind every effort to consolidate the Mohave County district, and said the city wanted to own its water system. He said they would continue to oppose any type of consolidation or socialization of water rates throughout the state because it was not fair and equitable. He said the intervenors did not seem to know the difference between the water system in Bullhead City as opposed to the systems in the Phoenix area. He displayed photos of both water systems. He said Bullhead City had only water tanks and wells with no buildings, people, vehicles, parking lots, and landscaping. He said the cost of providing water should not be the same throughout the state as there was a huge difference in the cost of delivering water and maintaining water facilities. He said Bullhead City's water was pumped from underneath their feet into a water tank, into a distribution line, and not transferred 200 miles from the Colorado River and pumping stations and treated as surface water while the city treats it as ground water. He said the administrative law judge saw the difference and changed the staff's recommendation to something that was viable and equitable. He said they believed that EPCOR would come back in the near future and still argue for full consolidation. He said they hoped the administrative law judge's recommendations would be upheld by the ACC, but said they believed that EPCOR was still pulling the strings behind the scene. He said they would continue to seek condemnation if it was feasible for the citizens of Bullhead City.

Mayor Brady said last year, they proposed a cap of a huge amount of money to buy the water system, which confused a lot of people. He asked City Manager Cotter about the reasonable amount the city would pay to purchase the water system, and if the voters could be assured the city would not be charging more than the rates proposed by EPCOR.

City Manager Cotter said there was a lot of rhetoric and heated exchanges including social media and on billboards during that time. He said he believed the cost would come back at approximately \$50 to \$70 million. He said ultimately an engineer would have to look at the facilities and determine a price, and said the price would be determined in court if condemnation was the only

path forward. He said they asked the officials in Edmonton if there was a different path that could be pursued. He said that conversation was not clicking with EPCOR. He said through the court case, cost allocation and price would be determined based on the engineer's estimate of the facilities. He said they now had time to determine the actual cost. He said they knew the cost was not \$130 million plus, even though EPCOR employees would say it was. He said EPCOR purchased the North Mohave system for just over \$2 million last year. He said the ACC might order a stand-alone rate for less and take another look at the add-on surcharges, weatherization, and facility charges. He said the city had been fighting the big picture consolidation and not looking at the add-on charges. He said the ratepayers knew they were paying for the big building and staff in Edmonton.

Mayor Brady said if the cost was determined to be much more at a later date and they believed the city could not provide the same or better service in the future through condemnation, the city would probably back off. City Manager Cotter said the Council would need to have a very serious discussion about how to proceed.

Mayor Brady said they were experiencing a tremendous drought and there was no telling how long it would continue. He said the cost of water, according to authorities, would substantially increase in the future; and under EPCOR's control, the cost to the citizens would go up. He said if the city controlled its own water, as in 61 other Arizona cities; it could control its own destiny.

Mayor Brady asked if anyone from the public wanted to speak.

Al Scigliano said the logical thing to do was to acquire EPCOR water. He said the franchise agreement obligated the city to administer the Colorado River water. He said the agreement stated the rate would be based on the contract area. He said EPCOR was violating the franchise agreement because they wanted the city to support water service in Maricopa County. He said the city should not allow EPCOR to control its water service and set the rates.

**MOTION: Council Member Wegmann made a motion to Adopt Resolution No. 2019R-01 as presented. Council Member Bruck seconded the motion.**

**VOTE:** AYES: Brady, Bruck, D'Amico, Ring, Shutts, Wegmann NAYS: None  
ABSENT: Clark

**MOTION CARRIED**

2. Discussion and possible action to consider cancelling the Council meeting originally scheduled for Tuesday, January 15, 2019. (City Manager Cotter)

City Manager Cotter said the Arizona Corporation Commission (ACC) had scheduled their meeting to be held on January 15th in Phoenix. He said there was no practical way the City Council could be in Phoenix and Bullhead City at the same time on that date. He said they were requesting that the January 15th Council meeting be cancelled in order to allow the Council Members and city staff to attend ACC the meeting in Phoenix. He said the items originally scheduled to be heard on January 15th would be included on the next regular meeting agenda scheduled for February 5th.

**MOTION:** Vice Mayor Ring made a motion to cancel the Council meeting originally scheduled for Tuesday, January 15, 2019. Council Member D'Amico seconded the motion.

**VOTE:** AYES: Brady, Bruck, D'Amico, Ring, Shutts, Wegmann NAYS: None  
ABSENT: Clark

**MOTION CARRIED**

**EXECUTIVE SESSION**

3. Discussion or consultation with the attorney of the public body for legal advice pursuant to A.R.S. § 38-431.03(A)(3) concerning EPCOR's water rate case pending before the Arizona Corporation Commission.

**MOTION:** Vice Mayor Ring made a motion to adjourn the special meeting and convene into executive session at 1:21p.m. Mayor Brady seconded the motion.

**VOTE:** AYES: Brady, Bruck, D'Amico, Ring, Shutts, Wegmann NAYS: None  
ABSENT: Clark

**MOTION CARRIED**

**MOTION:** Council Member D'Amico made a motion to adjourn from executive session and the special meeting at 1:56 p.m. Council Member Shutts seconded the motion.

**VOTE:** AYES: Brady, Bruck, D'Amico, Shutts, Ring, Wegmann NAYS: None  
ABSENT: Clark

**MOTION CARRIED**


**ADJOURNMENT**

Mayor Brady declared the special meeting adjourned at 1:56 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 11th day of January 2019. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 5th day of February 2019.

  
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Susan Stein, MMC, CPM  
City Clerk