

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
DECEMBER 16, 2015
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:31 p.m.

INVOCATION/PLEDGE

Erik Rangel, Pastor of Legacy Church, gave the invocation. **Richard Power** led the City Council in the Pledge of Allegiance.

ROLL CALL

Councilmembers Present:	Beeson, Craft, Knight, McClendon, Thomas, Wright, and Mayor Nicholls
Councilmembers Absent:	None
Staffmembers Present:	City Administrator, Gregory K. Wilkinson Executive Director of YCNHA, Charles Flynn Various Department Heads or their representative Deputy City Attorney, Richard Files City Clerk, Lynda L. Bushong

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms from members of the audience interested in addressing items scheduled on tonight's agenda.

PRESENTATIONS - No presentations were scheduled at this time.

I. MOTION CONSENT AGENDA

Mayor Nicholls declared a potential conflict of interest with regards to item B.6. He turned the meeting over to Deputy Mayor Thomas and exited the room.

B.6 Bid Award: Downtown Water Line Replacement - Award to the lowest responsive and responsible bidder for the construction of the Downtown Water Line Replacement project, for the total amount of \$1,130,796.87 to: Grey Mountain Construction, LLC Yuma, Arizona (Utilities – Bid #2016-200000082)

Motion (Beeson/McClendon): To approve Motion Consent Agenda item B.6 as recommended. Voice vote: **approved** 6-0-1; Mayor Nicholls abstaining due to conflict of interest.

Mayor Nicholls returns to the dais.

Motion (McClendon/Beeson): To approve the Motion Consent Agenda as recommended with the exception of item B.6. Voice vote: **approved** 7-0.

A. Approval of minutes of the following City Council meeting(s):

B. Approval of Staff Recommendations:

1. Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (City Attny)
2. Approve a Special Event Liquor License application submitted by Annette Lagunas, on behalf of the Fort Yuma Rotary Club, Inc., for Mardi Gras on Main. The event will be held on the 100-300 blocks of Main Street on Friday, February 5, 2016, from 4:00 p.m. to 12:00 a.m. (SP15-52) (Admin/ Clerk)
3. Approve a Special Event Liquor License application submitted by Stephen Murphy, on behalf of the German/American Friendship Club of the Desert Southwest, for German Fest on Madison. The festival will be held on Madison Avenue between 1st Street and 2nd Street on Saturday, January 23, 2016, from 10:00 a.m. to 10:00 p.m. (SP15-57) (Admin/ Clerk)
4. Approve a Special Event Liquor License application submitted by Pamela Neely Tomkins, on behalf of the Yuma Art Symposium, Inc., for the Yuma Art Symposium. The event will be held at the Gowan Building located at 370 S. Main Street on Saturday, February 27, 2016, from 4:00 p.m. to 12:00 a.m. (SP15-58) (Admin/ Clerk)
5. Approve a Special Event Liquor License application submitted by Patrick Lee Collins, on behalf of Silver Spur Rodeo, Inc., for the Silver Spur Rodeo. The event will be held at the Yuma County Fairgrounds located at 2520 E. 32nd St. on Friday, February 12, 2016, from 9:00 a.m. to 2:00 a.m., Saturday, February 13, 2016, from 9:00 a.m. to 2:00 a.m., and on Sunday, February 14, 2016, from 9:00 a.m. to 9:00 p.m. (SP15-59) (Admin/ Clerk)
6. Removed for separate consideration; see above.
7. Authorize the City Administrator to negotiate and execute a contract for Professional Services to complete a Feasibility Study & Project Assessment for the Relocation of the Yuma County Fairgrounds to the following firms beginning with the first firm listed. If negotiations for fees and services are successful with the selected consultant, as determined by the City, a contract for services will be prepared. In the event that negotiations are not successful, the City will terminate those negotiations in writing and begin negotiations with the next consultant listed. Populous, Inc., Kansas City, Missouri; C.H. Johnson Consulting, Inc., Chicago, Illinois. (DCD – RFP #2016-200000069)

III. RESOLUTION CONSENT AGENDA

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

Bushong displayed the following titles:

Resolution R2015-047

A resolution to adopt City Council Guiding Principles, Code of Ethics, and Office Protocol for Elected Officials of the City of Yuma, Arizona

Resolution R2015-048

A resolution of the City Council of the City of Yuma, Arizona, in support of a legislative proposal to revise Arizona Revised Statute §42-6106, granting an Intergovernmental Public Transportation Authority (IPTA), which has the same boundaries as the county in which it resides, the same authority as a Regional Transportation Authority (RTA) to levy a one-half cent transportation excise tax if approved by the voters

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

IV. ADOPTION OF ORDINANCES CONSENT AGENDA

Ordinance O2015-065 : Amend and Restate: (1) Phase Two Component Development and Disposition Agreement; (2) Phase Two Land and Improvements Lease; (3) Partial Assignment of Master Developer's Interest; (4) Fourth Amendment of Master Development and Disposition Agreement; and (5) Authorize an Eight-Year Abatement of the Government Property Lease Excise Tax on the Riverfront Development Phase Two Improvements

Phil Clark, 4296 W. County 15th St., Somerton, stated that the estoppel certificate that is part of this partial assignment is incorrect in stating that the Master Developer is not in default. The Master Developer has been in default at least twice, in part due to not completing the residential component of Phase Two by the December 7, 2015, due date. Additionally, the lease was modified without written consent of the lender. These are things that a prospective lender for Phase Two would likely want to know. He asked what happened to the \$3 million of guaranteed installment payments that have not been accounted for, and questioned when that money would be applied to any of the project's components.

Mayor Nicholls stated that he could not answer Clark's question and he does not know how the \$3 million figure was generated or if City staff had any input. **Clark** stated that the figure was generated by the Master Developer's attorney in the form of a court document that is part of a lawsuit filed against him by the Quechan tribe. **Wilkinson** stated that the document provided to City Council by **Clark** has been reviewed by the City Attorney, and the assertions in the document are not correct. The Master Developer is not in default.

Wright asked if the \$4.4 million in guaranteed installment payments was exclusive to Phase Two or if it was intended for all phases of the Riverfront development. **Clark** stated the court documents are clear that the Master Developer and his attorney understood that the money was for the entire 22 acre project, and it was his sole discretion to allocate that money as he saw fit across all phases of the components. **Mayor**

Nicholls stated that this is a question that should be answered in Executive Session. **Wright** asked if the Master Developer is in default in any way. **Wilkinson** stated that he is not.

Thomas recounted a City Council Meeting in 2013 at which **Clark** spoke on the same subject and had an opportunity to ask questions of the City Attorney, the Deputy City Attorney, as well as the City's attorney from Phoenix. He recalled that when **Clark** was asked if he had any further questions, he responded that his questions had been answered to his satisfaction. This subject has been addressed on multiple occasions, and it is time to move forward.

Wright stated that he'd like to see more details such as an artist's rendition of the apartments, restaurant, and parking area. **Flynn** displayed an image of the site looking south from the Main Canal. The parking area, clubhouse, and pool will be located close to 1st Avenue and act as a buffer between the apartments and the Yuma County Jail. **Wright** asked if the whole area will be gated.

In response to a question from Wright, **Bruce Jacobson**, 1334 S. 5th Ave., Yuma Riverview Apartments LLC, stated that the commercial (restaurant) portion will not be gated, but the apartments will. **Wright** asked who is anticipated to occupy the apartments. **Jacobson** stated that a number of individuals and organizations have indicated a need for upgraded apartments in Yuma, including the hospital, local military bases, and those involved with seasonal agriculture. Feedback has been positive, with many around the community expressing interest in the apartments. **Wright** asked whether another restaurant was needed in Yuma. **Jacobson** stated that part is going to be a challenge. There have been some inquiries, but they are not in a position to start pushing for a restaurant yet.

Jacobson explained that though prospective lenders recognize the potential in this project, they are concerned because they cannot see the whole picture. A local bank has been approached to solicit an appraisal on the entire project based upon all of the efforts that have been put into it to make it a success. The City needs the downtown area to be a success, and this is a step towards trying to do that. The City Council and City staff have been trying to work with him, and it has been an amenable trial. **Wright** asked if the appraisal has been completed at this point. **Jacobson** explained that there was an appraisal report completed before any work began on the project, and it was a negative report. It mentioned many of the concerns that have been expressed today. There have been efforts and negotiations made to address those concerns, and now it is time to take it back to the appraisers and let them incorporate everything into a full-blown appraisal report. A copy will be provided to City Council for review as soon as it is received. **Wright** thanked **Jacobson** for his time and commitment to the community.

Thomas also thanked **Jacobson** for his contribution to the City. As a local government, it is important to create an environment that promotes success in the private sector. This project will not only help to redevelop the downtown area but will also create jobs, and it is worthy of an affirmative vote.

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

Bushong displayed the following titles:

Ordinance O2015-061

An ordinance of the City Council of the City of Yuma, Arizona, amending Title 21 of the Yuma City Code, Chapter 211, *Traffic Rules*, by amending Section 09 to correct a scrivener's error; and providing penalties (corrects inaccurate A.R.S. subsection references) (Police/Admin) (Lekan)

Ordinance O2015-063

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that the real property, hereafter described, be acquired by the City of Yuma, by gift, easement, purchase or through the exercise of eminent domain for the construction of a wastewater lift station and other public purposes, and authorizing payment of costs for the acquisition (acquisition of 6,000 square feet of property located north of 24th Street and 27th Avenue) (City Admin) (Rinehart)

Ordinance O2015-065

An ordinance of the City Council of the City of Yuma, Arizona, approving and authorizing the City Administrator to execute the Yuma Pivot Point, Amended and Restated Phase Two Component Development and Disposition Agreement and Amended and Restated Partial Assignment of Master Developer's Interest and Fourth Amendment of Master DDA between the City of Yuma, Clark-Lankford, LLC (Master Developer) and Yuma Riverview Apartments, LLC (Component Developer), and associated documents including the Yuma Pivot Point Phase Two Amended and Restated Land and Improvements Lease between the City of Yuma and Yuma Riverview Apartments, LLC and authorizing abatement of the Government Property Lease Excise Tax in accordance with Arizona Revised Statutes § 42-6209 (development of a 64-unit residential apartment complex and a restaurant on 4.77 acres of City-owned property located at the northeast corner of 4th Avenue and 1st Street) (City Admin/YCNHA) (Flynn)

Roll call vote: **adopted** 6-1; Wright voting Nay.

V. INTRODUCTION OF ORDINANCES

Bushong displayed the following titles:

Ordinance O2016-001

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that a certain parcel of real property, hereafter described, be acquired by gift, purchase, dedication, easement or through the exercise of eminent domain for the reason that the described property is necessary for a utility project and other public purposes and authorizing payment of costs for the acquisition (acquisition of 530 square feet of property located at 2545 W. 5th Street necessary for the re-routing of underground water lines) (City Admin) (Rinehart)

Ordinance O2016-002

An ordinance of the City Council of the City of Yuma, Arizona, declaring certain right-of-way, hereafter described, surplus for use by the City, authorizing the vacating of the surplus right-of-way to the adjacent real property previously declared surplus by Ordinance No. O2013-038, declaring a certain remaining parcel of real property, hereafter described, surplus for City use upon City

acquisition and severance of the necessary Arizona Avenue right-of-way therefrom, and authorizing the conveyance of the remaining surplus parcel, the adjacent surplus property and the surplus right-of-way to the Housing Authority of the City of Yuma under certain conditions for the public purpose of constructing affordable rental housing (conveyance of property located in the Mesa Heights Neighborhood off of Arizona Avenue to HACY for the construction of an affordable housing development) (DCD/Neighborhood Svc) (Lineberry)

Ordinance O2016-003

An ordinance of the City Council of the City of Yuma, Arizona declaring certain rights-of-way, hereafter described, surplus for use by the City and authorizing the vacating of rights-of-way and sale of the surplus property to the adjacent property owner upon payment of the purchase price and the recording of a deed from the City (sale of rights-of-way on Avenue A, 16th Street, and Palmcroft Street not needed under the Transportation Master Plan)

VI. PUBLIC HEARINGS

There were no public hearings scheduled.

VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Motion (Beeson/McClendon): To reappoint James R. Adler and Clint Harrington to the Building Advisory Board with term expirations of December 31, 2020. Voice vote: **approved** 7-0.

Motion (Beeson/McClendon): To reappoint Stacy Bealmear-Jones to the Community Tree Board with a term expiration of December 31, 2020. Voice vote: **approved** 7-0.

Motion (McClendon/Beeson): To reappoint David Koopman and David J. Montoya to the Design and Historic Review Commission with term expirations of December 31, 2020. Voice vote: **approved** 7-0.

Motion (Beeson/McClendon): To reappoint J. Glendon Moss, Liz Laster, and James Allen to the Housing Authority of the City of Yuma with term expirations of December 31, 2020. Voice vote: **approved** 7-0.

Motion (McClendon/Beeson): To reappoint Linda Collins to the Merit System Board with a term expiration of December 31, 2020. Voice vote: **approved** 7-0.

Motion (McClendon/Beeson): To reappoint Jeffrey P. Maranti, Victoria Nguyen, and Judy Phillips to the Parks, Arts, and Recreation Commission with term expirations of December 31, 2020. Voice vote: **approved** 7-0.

Motion (Beeson/McClendon): To reappoint George Wilmot, Wayne Eide, Mike Richardson, and Sharon Merz to the Residential Advisory Board with term expirations of December 31, 2020. Voice vote: **approved** 7-0.

Motion (McClendon/Beeson): To reappoint Ron Corbin to the Yuma Fire Public Safety Board per statute. Voice vote: **approved** 7-0.

Motion (Beeson/McClendon): To reappoint Ron Corbin to the Yuma Public Safety Police Board per statute.
Voice vote: **approved** 7-0.

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

VIII. SUMMARY OF CURRENT EVENTS

Wilkinson noted the upcoming dedication for the newly rebuilt Stewart Vincent Wolfe Creative Playground taking place on Saturday, December 19, 2015. He thanked **Jacobson** and his crew for the amazing job they did for the community.

CALL TO THE PUBLIC

Clark stated that the recounting of the meeting in 2013 by **Thomas** was inaccurate. He stated that the developer is indeed in default and requested a copy of the Non Disturbance and Recognition Agreement (NDRA) that the City of Yuma had with the lender at the time of the developer's foreclosure. Council voted to amend the lease in the face of foreclosure without the written consent of the lender as required. **Files** stated that the NDRA **Clark** is referring to is recorded with the Yuma County Recorder, and he will provide the fee number for that document.

IX. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Nicholls** adjourned the meeting at 6:26 p.m. No Executive Session was held.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor