

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 20, 2024
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:34 p.m.

INVOCATION/PLEDGE

Natasha Baumgartner, Member of the Bahá'í Faith, gave the invocation. **Shelly Hook**, Development Project Coordinator, led the City Council in the Pledge of Allegiance.

FINAL CALL

Mayor Nicholls made a final call for the submission of Speaker Request Forms for agenda related items from members of the audience.

ROLL CALL

Councilmembers Present:	Morales, Smith, Morris, Shoop, Shelton, and Mayor Nicholls
Councilmembers Absent:	McClendon
Staffmembers Present:	Acting City Administrator, John D. Simonton Director of Planning and Neighborhood Services, Alyssa Linville Director of Building Safety, Randall Crist Police Captain, Anthony Legros Senior Planner, Erika Peterson Various Department Heads or their representative City Attorney, Richard W. Files City Clerk, Lynda L. Bushong

Presentation

Linville and **Crist** presented the following information relating to residential carports:

- Zoning through the Years
 - 1952 – Established front and side yard encroachment allowing for shade structures
 - Carports were permitted to encroach eight feet into the front yard setback, maintaining a 12-foot front yard setback
 - 1984 – These front and side yard encroachments were removed entirely
 - For over 30-years, structures within the front setback were built according to the eight-foot encroachment
 - 2024 – Side yard setback reduction for accessory structures
 - Currently working with Building Safety on an amendment that would allow a side yard encroachment for shade structures located in the side yard, outside the front yard setback

- Agreed that a three-foot side yard setback would be permissible for shade structures which are open on all four sides.
 - Was in response to the large shade structures for RVs and vehicles on the side yards.
- Why front yard setbacks
 - Setback were actually one of the primary principles of zoning when it was originally established
 - Is the required distance a structure must be setback from the front property line, primarily serving to maintain:
 - Public safety clearances
 - Utility access
 - Allows APS, Southwest Gas and other utility companies to locate their infrastructure within the first eight feet of a private property
 - Ensures proper sunlight and air flow around the surrounding streets
 - Improve traffic safety
 - Ensure clear visibility when cars are moving in and out of the property
 - Maintain character
- Building Safety Requirements
 - Permits
 - Necessary to make setback inspection on behalf of the planning department and to inspect the fire setbacks
 - Structural Design
 - Shades are not structural designs out of the International Residential Code (IRC)
 - Maintain Fire Setbacks (3' from property lines)
 - Existing approved standard plan for conventional wood shades
 - Approved standard plans are predesigned for citizen and contractor use
 - Path for metal and fabric shades to be approved and permitted (engineered standard)
 - A contractor out of San Luis had a local designer design a standard plan to be able to legally build metal shades in the City of Yuma.
- Current Trends
 - There have been 65 enforcement actions (cases) since August of 2022
 - Complaints are received through phone calls, emails, and the Click and Fix application.
 - Upon investigation many structures were deemed very unsafe
 - Homeowners typically comply when asked to remove unsafe shade structures from their properties
 - Examples of shade structures with the following issues were provided:
 - Structures that may look structurally sound but have no design criteria. A design professional would need to evaluate and approve the structure
 - Most design professionals will insist upon adding footings to shade structures
 - Shade structures with electrical metallic tubing (EMT) conduit, these types of shades are intended to be set up for outdoor activities where shade is needed, and not to be used as a permanent carport structure
 - Shades that are esthetically pleasing that are erected without any kind of truss, causing the carport to sag in some areas making them unsafe to use
- Considerations
 - Questions that have been asked in terms of these shade structures to take into consideration
 - Are shades necessary if an option for covered parking in the form of a garage or carport already exists on the property?

- Should a carport be cohesive?
 - Carports constructed between 1952 and 1984 were designed in a fashion that kept with the character of the home
- How close to the front property line should the structures be?
 - a 12-foot setback allows for a carport to be less noticeable when driving down the street
 - Homeowners building shades within the utility easement are responsible for the replacement of the shade in the event the utility company needs to break up the sidewalk or driveway to access the needed infrastructure
 - Side shades cause concerns in terms of visibility for traffic purposes
- Enforcement Timeframe
 - Building Safety is not actively patrolling for shade structures out of compliance. Most incidents are reported through the Click & Fix application, and by calling the Building Safety Department
 - When a complaint is received, a GIS map from August 2022 is reviewed to check if the shade has been up since that time before going out to the property to determine if the shade is substantially safe. If that shade was built prior to August 2022 and is deemed safe, Building Safety has not been enforcing compliance at this time.
 - If the shade is deemed unsafe the owner is asked to take it down, even if the shade has been in place longer than 2022

Discussion

- The gravity load and weight of the shades are not much of a consideration as most of them are made from fabric and light pipe. However, the strong winds the City of Yuma experiences from time to time, are a major consideration as it can blow shades into adjacent properties or out into traffic because of their gigantic sails. Those are the major considerations when a shade is deemed unsafe. **(Mayor Nicholls/Crist)**
- A carport must be open on two sides by the definition of the IRC. A carport abutted to a house will be open on three sides, that would be considered full open sides by definition of the IRC. **(Mayor Nicholls/Crist)**
- A three-foot side setback can be safely done if the carport is open, if the carport is not open the IRC would require a fire wall. A side setback of 5 feet allows for the carport to be enclosed on the sides. **(Mayor Nicholls/Crist)**
- An 8-foot front yard setback is a good distance to go with, and it will still allow homeowners to get shades on their property. A 3-foot side yard setback in line with fire separation requirements is also a good idea. Including cohesiveness in the code is concerning due to the subjectiveness. How cohesiveness will be enforced and maintained is important. **(Morris)**
- The definition of carports being open on two sides makes sense, and it would be okay maintaining two sides open at a minimum as long as it is written in the code that any part of the car ports within the first 20-feet of the property has to be open on all sides to not lose visibility of moving vehicles. **(Morris)**
- We are waiting for insight from the Registrar of Contractors and what they can do regarding unlicensed contractors building illegal structures. Our local representative is willing to meet the owner builder to try to determine who built the structures and conversate with them, but this is still a work in progress. **(Morris/Crist)**
- There is one particular shade that can be modified with footings, and it will be salvaged. It is believed there are more shades out there that can be saved from being rebuilt. There are a few shades we are currently working with trying to get the design professionals to address and correct issues if possible. **(Morris/Crist)**

- From a Building Safety standpoint, there are safe fabric structures that meet the International Building Code (IBC), these shades are what the City uses over the playgrounds at City parks. These shades are designed to last a long time, they do deteriorate over time, but they are made safe and provide proper shade. **(Morales/Crist)**
- From a zoning perspective, cohesive would mean to match the existing home, but cost wise that might not be feasible for some residents within the community. Cohesive can be better defined, whether the shade cloth should match the home, or something along the lines of detracting from the character of the neighborhood. **(Linville/Morales)**
- The types of shades we have been discussed tonight, will not support the weight of solar panels. However, shades can be designed to carry the dead load of solar panels. These shades would need to be factory made. There are some homes that are not able to support the additional load of solar panels because they were built years ago. Homes in older neighborhoods that apply for solar panels must be thoroughly investigated to determine if the home can support the weight of the solar panels. **(Shoop/Crist)**
- Shade structures that have been in place for many years does not mean that it was safely installed. The shade could have blown away once or twice and put back up. It is a judgement call when trying to determine if a shade is in good condition and deemed safe enough to keep up. If a shade is deemed safe to keep, it probably does not meet the current letter of the code, and in that event an effort will be made to keep a happy medium between having the owner take the shade down or upgrade the shade. **(Shelton/Crist)**
- Anchoring a shade to a cement slab without footings may seem good enough to hold a shade in place but overtime the anchoring will begin to slowly fail. Heavy cracks on the slabs will also cause the anchoring to fail. There are many things that could happen without proper footing. **(Shelton/Crist)**
- There is an obligation to protect our citizens and have a safe community; residents with shades that are close to being deemed safe, will be offered remedies to fix their shade rather than automatically having the shade brought down. This also depends on the size of the shade as a 10 inch by 20-inch shade is easier to accommodate than a 28 inch by 20-inch shade. **(Shelton/Crist)**
- Building Codes are enforced to consistently create a safe environment for citizens, and to avoid dangerous accidents. Waiting for an accident to happen to deem a shade unsafe goes against the City's obligation to create a safe environment. Although some shades may look like they are secured to a slab of concrete and they have not caused any issues since erected, there needs to be steel in the concrete and stronger concrete to withstand the occasional strong winds in Yuma. **(Mayor Nicholls/Shelton)**
- It is agreed that there needs to be a balance between having an owner take down their shade or have them upgrade their shade. Building projects based on building codes will help when deciding on the outcome of the project and to also stay consistent with resolutions for future projects. **(Mayor Nicholls/Shelton)**
- The safety of an owner's home is not the only concern of a collapsed shade, neighboring areas and the streets surrounding the home could also be affected. An eight-foot setback is a good idea. **(Smith)**
- When speaking about cohesiveness it is important to hold consistency through the building codes, instead of cohesiveness in the appearance of the shades. Having to wait for approval of the color of shade to install can take six to eight months, instead of three to four weeks, and the work that has been done in the past ten years in expediting the approval process will be lost and will lead to housing issues. When speaking about cohesiveness, it should be reflective enough to help be consistent across the building codes. **(Mayor Nicholls)**

- The City does have cohesive requirements for accessory dwelling units and some for accessory structures. Modifications to the requirements will be proposed by the Attainable Housing Committee in the future. **(Linville)**
- If there will be something done to the carports, the same should be done to the main structure to keep them uniformed. **(Mayor Nicholls)**
- Canvas tops are deceptive in that they look like it they will not cause as much damage in the event of it flying off, but it can cause as much damage as a metal or plywood top, and for that reason canvas should not be excluded from the list of building materials for a carport. **(Mayor Nicholls)**
- There is currently a 3-strike policy in place for licensed contractors who work without the proper building permits. The strikes stay on the contractors record with the City for three years. Unlicensed contractors is where the problem remains. Homeowners who used unlicensed contractors are urged to inform the code enforcement officers with their information to report them to the registrar of contractors; it is believed most of the shades are coming from San Luis Mexico. Additionally, a homeowner does not need a permit to work on their own home. **(Mayor Nicholls/Crist)**
- Something built years ago and is determined safe by a building official, per statute, code enforcement will not be implemented. In this instance, aerials of the City of Yuma neighborhoods from 2022 are being used to determine how long a shade has been on a property. However, if a shade is unsafe and was built after 2022, code enforcement will take action. **(Mayor Nicholls/Crist)**
- If using canvas when building a shade, provisions can be put in place to maintain the canvas, not only for safety reasons but also for esthetics. **(Mayor Nicholls)**
- A 9-foot front yard setback would be favored to not infringe on the utility easement with footings. **(Mayor Nicholls/Crist/Linville)**
- Not all properties have a 8-foot public utility easement. In the review process planning and zoning could verify if an 8-foot public utility easement exists on the property to determine if that particular shade cannot have footings that encroach into the easement. **(Morris)**
- Footings for walls have been put in through that eight-foot easement and it is understood through the easement that if something is disturbed, the property owner will take the loss. An 8-foot front yard setback will work. **(Mayor Nicholls)**
- If footings are approved going in to the 8-foot easement, a waiver should be signed by the homeowner acknowledging the encroaching into the easement. **(Morris)**
- Yes, the City does have a wind threshold of 95 mile an hour wind that structures are supposed to be designed to. This is based off the IBC and the IRC. **(Shelton/Crist)**
- Not all homeowners are aware that permits are needed to build shades on their property. However, building safety has done a great job over the last few years to educate through public outreach, attending school functions, and job fairs to spread the word of required permits and to have the community call the City and ask questions. **(Shelton/Crist)**

I. MOTION CONSENT AGENDA

Motion Consent Agenda Item C.1 – Bid Award: Avenue 5E Sanitary Sewer Main Extension and Turn Lane Improvements (Authorize a construction services contract for Avenue 5E Sanitary Sewer Main Extension from 30th Place to 37th Street and the addition of a right turn lane from 32nd Street to north bound Avenue 5E, to the lowest responsive and responsible bidder in the amount of \$3,454,137.38 to Gutierrez Canales Engineering (GCE), Yuma, Arizona) (RFB-25-102) (Eng/Purch)

Motion Consent Agenda Item C.2 – Bid Award: Ocean to Ocean Bridge Lighting Upgrades (Award a construction services contract for Ocean-to-Ocean Bridge Lighting Upgrades to the lowest

responsible bidder in the amount of \$224,900.50 to: Westmoor Electric, Inc., Yuma, Arizona) (RFB-25-058) (Eng/Purch)

Mayor Nicholls declared a conflict of interest on Motion Consent Agenda Items C.1 and C.2, due to his firm's involvement in the project, turned the meeting over to **Deputy Mayor Morris**, and left the dais.

Motion (Morales/Smith): To approve Motion Consent Agenda Items C.1 and C.2 as recommended. Voice Vote: **approved** 5-0-1, **Mayor Nicholls** abstaining due to conflict of interest.

Mayor Nicholls returned to the dais.

Motion Consent Agenda C.5 – Cooperative Purchase Agreement: Public Safety Video Surveillance

Solutions with Related Equipment, Software and Accessories (Authorize the purchase of body-worn cameras, hardware, licenses, and support utilizing the Cooperative Purchase Agreement through Sourcewell for a total expenditure of \$346,784.26) (CPA-25-181) (YPD/Purch)

Discussion

- Not all members of the Yuma Police Department (YPD) have been issued body worn cameras (**Smith/Legros**)
- This grant will increase the number of body worn cameras to be issued to officers and specialty units (**Smith/Legros**)
- The cameras YPD currently has were purchased with grant monies, and the upkeep of the cameras is added to the department budget yearly (**Smith/Legros**)
- YPD can apply for this grant again next year (**Smith/Legros**)

Motion (Morris/Morales): To approve the Motion Consent Agenda as recommended with the exception of Items C.1 and C.2 which were approved through a separate vote. Voice vote: **approved** 6-0.

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

Regular Council Worksession Minutes October 15, 2024

Regular Council Meeting Minutes October 16, 2024

B. Executive Session

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 Atty)

C. Approval of Staff Recommendations

1. Pulled for separate consideration; see above.
2. Pulled for separate consideration; see above.

3. Authorize the purchase and installation of 12 HVAC ground-mounted units to the lowest responsive and responsible bidder, Trane, Tucson, Arizona for total cost of \$127,423.75. (RFB-24-307/RFB-25-155) (Facilities Mgmt/Purch)
4. Authorize the purchase and installation of 20 HVAC Rooftops units to the lowest responsive and responsible bidder, Polar Cooling, Yuma, Arizona for a total cost of \$228,475.00 (RFB-24-307/RFB-25-147) (Facilities Mgmt/Purch)
5. Authorize the purchase of body-worn cameras, hardware, licenses, and support utilizing the Cooperative Purchase Agreement through Sourcewell for a total expenditure of \$346,784.26. (CPA-25-181) (YPD/Purch)
6. Authorize the use of the National Cooperative Purchasing Alliance (NCPA) Cooperative Purchase Agreement for a three-year asset management software subscription "OpenGov" for a total estimated expenditure of \$550,000.00 to Vertosoft, Leesburg, Virginia. (CPA-25-194) (Public Works/Pks & Rec/IT/Purch)
7. Authorize the purchase of additional modules of a PowerDMS software subscription for a three-year term at total cost of \$279,265.27 to PowerDMS, El Segundo, California. (SS-25-186) (YPD/IT/Purch)
8. Ratify settlement of the Hartman Notice of Claim. (Atty)

II. RESOLUTION CONSENT AGENDA

Resolution R2024-065 – Grant Agreement: U.S. Department of Transportation's Federal Highway Administration – Safe Streets and Roads for All Grant (Authorize the City Administrator to execute a Grant Agreement with the U.S. Department of Transportation's (USDOT) Federal Highway Administration (FHWA) to develop a City of Yuma Comprehensive Safety Action Plan) (Eng)

Mayor Nicholls declared a conflict of interest on Resolution R2024-065 due to his firm potentially working on the project in the future, turned the meeting over to Deputy Mayor Morris, and left the dais.

Motion (Smith/Morales): To adopt Resolution R2024-065 as recommended.

Bushong displayed the following title(s):

Resolution R2024-065

A resolution of the City Council of the City of Yuma, Arizona, approving and authorizing a Grant Agreement with the U.S. Department of Transportation's (USDOT) Federal Highway Administration (FHWA) to develop a Comprehensive Safety Action Plan (identifying and prioritizing safety improvements that accommodate all modes of transportation and users) (Eng)

Roll call vote: adopted 5-0-1, **Mayor Nicholls** abstaining due to conflict of interest.

Mayor Nicholls returned to the dais.

Motion (Smith/Morales): To adopt the Resolution Consent Agenda as recommended, with the exception of Resolution R2024-065 which was adopted by a previous vote.

Bushong displayed the following title(s):

Resolution R2024-064

A resolution of the City Council of the City of Yuma, Arizona, approving and authorizing a probationary Certification Acceptance Agreement with the Arizona Department of Transportation for the delivery of federally funded construction projects (allows the City to self-administer federally funded construction projects) (Eng)

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

III. INTRODUCTION OF ORDINANCES

Bushong displayed the following title(s):

Ordinance O2024-039

An ordinance of the City Council of the City of Yuma, Arizona, authorizing the acceptance of Gift Property (for property located between Avenue 7½ E and 7¾E and approximately centered along the USBR “A” Canal with power easements on the Southeast edge of the canal)

IV. PUBLIC HEARING

R2024-066 – Major General Plan Amendment: 19 A, LLC (following a public hearing, approve the request to amend the City of Yuma General Plan to change the land use designation from Low Density Residential, Resort, Recreation & Open Space, Business Park, and Public/Quasi-Public to Industrial. (Plng & Nbhd Svcs/Cmty Plng) (Plng & Nbhd Svcs/Cmty Plng)

Mayor Nicholls opened the public hearing at 6:47 p.m.

Peterson presented the following information:

- This is a major general plan amendment for approximately 160 acres for the properties located at the northeast corner of County 19th Street and Avenue A
- Applicant is proposing to change the land use designation from Low Density Residential, Resort, Recreation and Open Space, Business Park and Public/Quasi-Public to Industrial
- Applicant’s intent is to pursue a rezoning for industrial development in the future
- Surrounding Land Uses:
 - North – Agriculture
 - South – Agriculture
 - East – Agriculture
 - West – Agriculture
- A neighborhood meeting was not held on site for this property, as the properties surrounding the area are either date farms or citrus farms
- No comments from neighboring property owners in opposition of the change have been received
- The Planning and Zoning Commission recommended approval of this request on October 14, 2024

Mayor Nicholls closed the Public Hearing at 6:49 p.m.

Discussion

- There is no particular use for the land from the applicant at this time (**Nicholls/Peterson**)
- The applicant is looking to zone the property accordingly to list it for sale (**Nicholls/Peterson**)

Motion (Morris/Shelton): To adopt Resolution R2024-066 as presented.

Bushong displayed the following title(s):

Resolution R2024-066

A resolution of the City Council of the City of Yuma, Arizona, amending resolution R2022-011, The City of Yuma 2022 General Plan, to change the land use designation of approximately 160 acres at the northeast corner of County 19th Street and Avenue A from Low Density Residential, Resort, Recreation & Open Space, Business Park, and Public/Quasi-Public to Industrial (rezoning for future industrial development) (Plng & Nbhd Svcs/Cmty Plng)

V. ANNOUNCEMENTS AND SCHEDULINGAnnouncements

Smith, Morales, Morris, and Mayor Nicholls reported on the following meetings attended and upcoming events:

- Desert Dunes Water Reclamation Facility Groundbreaking Ceremony
- Good Morning Yuma at Arizona Western College
- Tribute of the Muses
- Greater Yuma Economic Development Corporation Luncheon
- Campesinos Sin Fronteras 25th Anniversary Dinner
- Yuma's Veteran's Day Parade
- Desert Spirit Adventure Guide Unveiling
- Yuma County Drug Court 100th Graduation
- Special Olympics Annual Breakfast with Champions
- Southwest Contractor Association Annual Dinner
- Arizona Western College Foundation Board Meeting
- Residential Advisory Board Meeting
- Yuma Scholarship Pageant
- Christmas Tree Lighting Yuma Palms
- Penitentiary Pint Fest
- Scouting Arizona Yuma's Trail to Leadership Dinner
- Elevate Southwest Board Meeting

Scheduling - No meetings were scheduled at this time.

VI. SUMMARY OF CURRENT EVENTS

Simonton reported the following events:

- 2025 Citizens Neighborhood Leadership Academy starts January 16, 2025
- Fall Archery Tournament – November 23, 2024
- Special Council Meeting – November 21, 2024

Simonton reminded the community of the changes in the refuse schedule due to the Thanksgiving Holiday.

VII. CALL TO THE PUBLIC

Chris Norman, City resident, spoke regarding reckless driving in his neighborhood. **Norman** requested two speed bumps or dips to be installed in his neighborhood to deter street racing, and also requested officer presence in the streets surrounding his home to issue ticket violations to drivers not following the traffic rules.

Anthony Felix, City resident, spoke regarding what he believes are false reports and accusations against him by the Yuma Police Department.

Ryleigh Felix, City resident, spoke regarding the reopening of a case involving her father, Anthony Felix; she feels the case was improperly handled by the Yuma Police Department.

VIII. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Nicholls** adjourned the meeting at 7:10 p.m. No Executive Session was held.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of:

City Clerk: _____