

MINUTES
CITY COUNCIL CITIZEN'S FORUM
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS - YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
September 3, 2019
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council Citizen's Forum to order at 5:31 p.m.

Councilmembers Present: Shelton, Watts, Thomas, Knight, Miller, and Mayor Nicholls
Councilmembers Absent: McClendon
Staffmembers Present: City Administrator, John D. Simonton
Chief of Police, Susan Smith
Animal Control Supervisor, John Allen
Various department heads or their representatives
City Attorney, Richard W. Files
City Clerk, Lynda L. Bushong

I. CITY ENFORCEMENT POLICY RELATED TO BARKING DOGS

Jesse Villarreal, 3772 S. Cactus Wren Way, stated he wanted to discuss the enforcement of Yuma City Code (Code) §§130-005 and 130-051 titled *Animals Disturbing the Peace* and *Unlawful Keeping* respectively. **Villarreal** has been told by the Yuma Police Department that the Code is enforced but that Animal Control Services tells him it is not.

Villarreal explained that he was addressing City Council today due to an issue he is having with his neighbor's barking dog(s). **Villarreal** stated he encounters an aggressive "barking assault" any time he comes home, goes in the front or back yard, when he opens his sliding glass door and during all hours of the night. The situation is a serious problem and is causing undue stress which is leading to health issues such as high blood pressure and weight gain. **Villarreal** advised he spoke with the owner of the barking dog(s) in February and stated that the Owner's response was that he does not care. Other neighbors, although affected, are not willing to come forward according to Villarreal. **Villarreal** is considering moving due to no other options.

Villarreal reported he has had many conversations with Sgt. Allen in Animal Control Services who, in addition to stating prosecution is a process, told him that the City Attorney's Office is following a 9th Circuit Court of Appeals ruling on barking dogs that states they need corroboration from someone other than the complainant in order to prosecute. **Villarreal** questioned having ordinances that cannot be enforced and would like to see City Council come up with something enforceable.

Mayor Nicholls requested some background on the 9th Circuit Court ruling and how it applies to our Code and also the process.

Smith stated that the process is to "long form it" to the Prosecutor's Office if there is enough evidence to show that the Code is being violated. Animal Control Services has responded to this address numerous times and has sat out in front of the house and the only time the dog(s) would bark is if the

officers went up to the fence. Neighbors in the area have also denied incidents where the dog(s) was barking out of the normal that would be expected from a dog.

Deputy Mayor Knight asked Villarreal if he has tried recording the barking dog(s) to play back to Animal Control Service officers. **Villarreal** responded that he has not because he was told by Sgt. Allen that the City Prosecutor would still not take the case. **Villarreal** further stated that the neighbors do not want to get involved

Deputy Mayor Knight asked when the ordinance was enacted. **Files** stated it was last visited in March 2011. **Mayor Nicholls** responded that the issue seems more about corroborating evidence than the Code itself.

Shelton asked what the neighbor's response has been and whether the officers attempted the same trigger points as stated by Mr. Villarreal. **Allen** replied that his officers told him that none of the neighbors would corroborate that the dog(s) was barking to a point where it bothered them. Also, the Owner purchased a bark collar, to appease Mr. Villarreal and help with the situation, even though he felt the dog(s) did not bark excessively. **Allen** stated the Owner feels he is being harassed. **Allen** continued stating one of the officers had Mr. Villarreal open and close his sliding glass door and no barking was heard on that one particular occasion. **Allen** has even had his officers park in hiding at different times throughout the day and they have not heard barking with the exception of one time when the Owner intentionally took the bark collar off when he saw suspicious people in the neighborhood. The Owner agreed to put the collar back on once contact was made with him.

Mayor Nicholls stated that Mr. Villarreal's point is to look at changing the enforcement policy and tasked the City Attorney's Office and the Yuma Police Department to research whether there is a better way to do it.

Thomas reported that he has read the report and feels the Owner has done whatever has been requested of him by Animal Control to stop the barking. **Thomas** stated he feels that it is an issue of insufficient evidence rather than enforcement and does not feel it is up to City Council to enforce this but rather our law enforcement.

Mayor Nicholls stated he would follow up with the City Attorney's Office and the Yuma Police Department to see if there is anything else we can come up.

II. ADJOURNMENT/EXECUTIVE SESSION

There being no further business, **Mayor Nicholls** adjourned the meeting at 5:53 p.m. No Executive Session was held.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor