

**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS, YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**MARCH 6, 2019**  
**5:30 p.m.**

**CALL TO ORDER**

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

**INVOCATION/PLEDGE**

**Pastor Phillip Hayman**, Valley Baptist Church, gave the invocation. **Fire Chief Steve Irr** led the City Council in the Pledge of Allegiance.

**ROLL CALL**

Councilmembers Present: Shelton, Watts, Thomas, Knight, McClendon, and Mayor Nicholls  
Councilmembers Absent: Miller  
Staffmembers Present: City Administrator, John D. Simonton  
Principal Planner, Jennifer Albers  
Assistant Director of DCD, Alyssa Linville  
Various Department Heads or their representative  
City Attorney, Richard W. Files  
City Clerk, Lynda L. Bushong

**FINAL CALL**

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

**PRESENTATIONS**

Recognition of Del Sol Market Donation

**Andreas Salcedo** of Del Sol Market presented Director of Parks & Recreation, Debbie Wendt, and Arts & Culture Program Manager, Lindsay Benacka, with a donation to the City of Yuma and thanked the City, the Yuma Art Center, the Yuma Police Department, and the community for coming together to help clean up the graffiti placed on the mural at the store located on 4<sup>th</sup> Avenue and 3<sup>rd</sup> Street. **Mayor Nicholls** thanked Del Sol Market for their generous support of the community and thanked the community for their response to the graffiti, noting that it was not an organized response through the graffiti hotline, but rather people simply showing up on their own to help.

**I. MOTION CONSENT AGENDA**

Motion Consent Agenda Item B.5 – Intergovernmental Agreement: 4FrontED Binational Program (execute an amended and restated Intergovernmental Agreement with 4FrontED to include a budget and related population estimates)

**Mayor Nicholls** introduced Nazzer Mendez, the new Executive Director of the 4FrontED Binational Program.

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

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

Regular Council Worksession	February 20, 2018
Regular Council Worksession	February 5, 2019

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 a Special Event Liquor License application submitted by Marguerite Harmon on behalf of Catholic Community Services of Southern Arizona, Inc., for Come Wine With Us. The event will take place at Yuma City Hall located at One City Plaza on Thursday, April 25, 2019, from 6:00 p.m. to 8:00 p.m. (SP19-09) (Admin/Clerk)
3. Reject all bids for Fertilizer and Chemicals for Grounds Maintenance. (Parks – 2019-20000039)
4. Authorize a change order for job order #3 with PCL Construction, Inc. in the amount not to exceed \$230,000, for additional work required to complete the Figueroa Avenue Water Pollution Control Facility annual overhaul project, pursuant to the City's Municipal Water and Wastewater Treatment Plant Job Order Contract. (Eng)
5. Authorize the City Administrator to execute an amended and restated intergovernmental agreement (IGA) with 4FrontED. The IGA formalizes a binational relationship to promote growth and expand economic opportunities in the 4FrontED region. The region consists of Yuma County; Imperial County, California; San Luis Rio Colorado, Sonora, Mexico; and the Mexicali area of Baja California Norte bordering San Luis Rio Colorado and Yuma County. (Admin)
6. Authorize the City Administrator to enter into an agreement with the United States Department of Energy for a Joint Planning Agreement. (Utilities)

## II. RESOLUTION CONSENT AGENDA

Resolution R2019-006 – Authorize Inclusion of Yuma County Parcel APN 633-44-147 into the Main Street Mall and Off Street Parking Maintenance District No. 1 (property located on the northeast corner of S. Maiden Lane and Harold C. Giss Parkway) (Attny)

**Mayor Nicholls** declared a conflict of interest on Resolution R2019-006, turned the meeting over to Deputy Mayor Knight, and left the dais.

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

**Bushong** displayed the following title:

**Resolution R2019-006**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing the inclusion of Yuma County Parcel APN 633-44-147 into the Main Street Mall and Off Street Parking Maintenance District No. 1** (in accordance with the criteria set forth in A.R.S. §48-574(J)) (Attny)

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

**Mayor Nicholls** returned to the dais.

**III. ADOPTION OF ORDINANCES CONSENT AGENDA**

**Motion** (Thomas/Knight): To adopt the Ordinances Consent Agenda as recommended.

**Bushong** displayed the following titles:

**Ordinance O2019-013**

**An ordinance of the City Council of the City of Yuma, Arizona, amending the Yuma City Code Chapter 37 relating to privilege tax on wastewater removal services; establishing effective dates; providing penalties for violation thereof; and providing for severability** (to make wastewater removal services subject to transaction privilege tax) (Finance)

**Ordinance O2019-014**

**An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, rezoning certain property located in Agriculture (AG) District to the Low Density Single-Family Residential (R-1-5) District, and amending the zoning map to conform with the rezoning** (approximately 142.5 acres of property located at the southwest corner of E. 44<sup>th</sup> Street and S. Avenue 8E) (DCD)

**Ordinance O2019-015**

**An ordinance of the City Council of the City of Yuma, Arizona, authorizing the accepting and granting of easement rights described in the First Amended and Restated Reciprocal Easement Agreement** (property located at the northeast corner of 16<sup>th</sup> Street and 4<sup>th</sup> Avenue) (Attny)

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

**IV. INTRODUCTION OF ORDINANCES** – There were no ordinances scheduled for introduction.

**V. PUBLIC HEARINGS AND RELATED ITEMS**

MC2019-052 – Annexation Area No. ANEX-23670-2018: Trail Estates 1, 2, and 3 (properties located at the northwest corner of Avenue 9E and 40<sup>th</sup> Street) (DCD)

**Mayor Nicholls** opened the public hearing at 5:44 p.m.

**Albers** presented the following information:

- Area is completely developed with 149 single-family homes and one stormwater retention basin
- Property is currently zoned as County Mobile Home Subdivision (MHS) – 10,000 square feet
- Area is already connected to City water and sewer
- Property was previously part of a larger proposed annexation area in 2005 that was not successful
- No additional costs are anticipated for new equipment or buildings to service this area because this is a developed subdivision that is adjacent to the City of Yuma
- Revenues are anticipated in the form of state shared revenues and property taxes of approximately \$130,000 per year
- Property owners will face additional property taxes on average of \$212 annually. However, they will not need to contract with Rural Metro for fire service, will pay lower water and sewer fees, and will not have the need for a separate contract for solid waste
- A neighborhood meeting was held on February 12<sup>th</sup> and petitions will be sent out on March 16<sup>th</sup>

**Motion** (Thomas/Knight): To close the Public Hearing. Voice vote: **approved** 6-0; Public Hearing closed at 5:49 p.m.

Discussion

**Knight** asked if this area will be annexed as a mobile home park. **Albers** explained that the closest City zoning would be Residence Manufactured Home (RMH) 10,000 Square-Foot. Although the area is more like a single-family home subdivision, the RMH zoning is a better match to the lot coverage and setbacks already in place.

**Thomas** asked if the residents have provided any reason as to why they would like to annex now since the prior annexation attempt was not successful. **Albers** stated that the property owners within Trail Estates have expressed an interest in not having to contract with Rural Metro and for reduced water and sewer fees. The previous annexation attempt was a much larger area and included more residents who were opposed to the annexation.

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Resolution R2019-004 General Plan Amendment: 2018 Yuma Bikeways Plan (approve the request to adopt the 2018 Yuma Bikeways Plan and amend the City of Yuma 2012 General Plan) (DCD)

**Mayor Nicholls** opened the public hearing at 5:51 p.m.

**Albers** presented the following information:

- This document is part of a periodic review of the City's facility plans and was last updated in 2009 and involved participation from Engineering, Public Works, Parks and Recreation, and Community Planning as well as input from the public

- This is the first time that an online interactive map was used to obtain public input and 387 comments were received
- A series of stakeholder meetings were held with Yuma Regional Medical Center, Safe Kids and other entities, an open house was held, and the public agency review process has been completed
- The two major issues identified during the public hearing and review process are a disconnect between existing bikeways and the availability of funding
- Five key recommendations came from these efforts: safety, convenience, connectivity, promotion, and implementation
- Goals have also been put into place to achieve Bicycle Friendly Community silver status and to build 50 miles of bikeways over the next 10 years
- The overall plan is very broad, but is based on buildout of the General Plan and takes advantage of development that is already occurring and construction plans in the Capital Improvement Program
- Projects were prioritized based on public comments as well as safety issues and the locations of accidents involving bicyclists
- On January 28<sup>th</sup> the Planning and Zoning Commission recommended approval of the General Plan Amendment and the 2018 Yuma Bikeways Plan

#### Speakers

- **Jeff Brand**, 10447 S. Cyclone Ave., spoke in support of the 2018 Yuma Bikeways Plan (Plan) on behalf of the Yuma Regional Bicycle Coalition. The Plan includes all of the elements needed to build a truly bicycle safe and accessible City, and correctly identifies the locations that need efforts to enhance accessibility and safety. He thanked City staff and City Council for their efforts.
- **Greg Faure**, 10317 E. 29<sup>th</sup> Pl., pointed out that developing and maintaining cycling routes within the City and Yuma County is a key ingredient to attracting and retaining retirees. He thanked City Administration and its various departments for the great support provided over the years.

**Motion** (Thomas/McClendon): To close the Public Hearing. Voice vote: **approved** 6-0; Public Hearing closed at 6:05 p.m.

#### Discussion

**Shelton** asked if outreach was conducted to attempt to reach bicyclists who may not already be in the loop regarding things taking place in the City. **Albers** confirmed that this has been done throughout the process. **Shelton** asked if local bicycle retailers have also been included in the survey process. **Albers** stated that local bike shops are part of the stakeholder outreach process. **Shelton** asked if bicyclists at the younger end of the spectrum – elementary, junior high, and possibly high school students – were included in the outreach efforts. **Albers** replied that while outreach to these specific groups has not occurred, the hope is with the significant public comments received that they were able to provide any comments they had to the City. **Shelton** suggested that in the future a specific effort is made to include school-age children such as that which took place during the development of the Stewart Vincent Wolf Creative Playground.

**Mayor Nicholls**, noting that he had been made aware of a misconception regarding the Plan, pointed out that this is not a funding mechanism but rather a plan to prioritize projects. Additionally, bikeways along canals are generally state or federally funded so no money would be taken from the General Fund.

**Motion** (Knight/Thomas): To adopt Resolution R2019-004 as presented.

**Bushong** displayed the following title:

**Resolution R2019-004**

**A resolution of the City Council of the City of Yuma, Arizona, adopting the 2018 Yuma Bikeways Plan and amending Resolution R2012-29, the City of Yuma 2012 General Plan to incorporate the 2019 Yuma Bikeways Plan** (update Chapter 3 – Transportation Element to reflect an updated proposed bikeway network as well as updated goals, objectives, and strategies) (DCD)

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

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Ordinance O2019-011 – Rezoning of Property: Northwest corner of S. Avenue 9E and E. 24<sup>th</sup> Street (rezone approximately 7 acres of property from the Agriculture (AG) District to the Medium Density Residential (R-2) District with the intent of developing no more than 84 high-end residential units) (DCD)

**Linville** presented the following information:

- According to the applicant, the intent would be to develop the site with no more than 84 residential units
- A General Plan Amendment was approved in 2015 changing the land use designation of the subject property from Low Density Residential to Medium Density Residential
- Following the successful General Plan Amendment, a rezoning was approved to Medium Density Residential which was later overturned through a resident initiated Special Election in 2016 with 59% of voters voting to deny the request
- During the review of the most recent rezoning application, City staff noticed that the request mirrored the one that voters had previously denied in 2016
- City staff sought additional information in hopes that the application could be reviewed as a modification or a new request, however the applicant was unable to provide any additional information regarding the future development of the site
- 25 residents attended the neighborhood meeting at a nearby school and voiced concerns about the potential increase in traffic, the potential impact on already overcrowded schools in the area, and an overall concern regarding the increased density on that particular site
- Due to the request being identical to one that was already denied by voters and the neighborhood opposition, City staff was unable to make a recommendation to approve the rezoning
- The Planning and Zoning commission failed to make a recommendation due to a tie vote with two votes for and two votes against the rezoning

**Jeff Snow**, representing the applicant Saguaro Desert Land, Inc., continued the presentation which began at the March 5, 2019 City Council Citizen's Forum:

- Arizona housing trends
  - The Arizona Department of Housing 2018 Housing Report
    - The average price of a home has increased above the reach of a typical family
    - Construction permits are falling significantly behind the demand for new units
    - Between 2017 and 2018 the homeless population increased by 10%
    - Housing prices increased by 9.5% in the first quarter of 2018 compared to the national average of 6.9%
  - The Urban Land Institute has reported that Arizona ranks third in the U.S. in terms of underproduction of housing

- Analysis of Yuma's housing conditions shows that there is only a two-month supply of housing priced below \$200,000, and housing appreciated at a rate 20 times greater than the increase in wages
- National housing trends
  - Austin, Texas is considering allowing up to six affordable units on current single-family lots in high-opportunity areas
  - Minneapolis, Minnesota moved one step closer to up-zoning at least one-half of the city from single-family to multi-family which will allow up to three dwelling units per lot
  - Seattle, Washington has introduced legislation to permit two Accessory Dwelling Units (ADUs) per lot, eliminate off-street parking, eliminate minimum lot sizes, reduce impact and utility connection fees, and reduce setback and building height limits
  - Chief Executive Officers of 17 major corporations are advocating affordable housing, and Microsoft announced a \$500 million pledge to support affordable housing
  - Idaho is set to hold public hearings this year to consider By-Right Zoning (uses permitted in a certain district that do not require special review or approval by the local governing body)
  - Florida has developed Goal 109, a plan which would implement By-Right Zoning in the Florida Keys
  - Portland, Oregon voters approved a \$652 million bond in November 2018 to provide affordable housing for approximately 12,000 people
  - In California, Governor Newsom's budget proposed \$8 billion for housing (a \$3 billion increase) and to withhold transportation funding from cities failing to meet housing production targets
  - In Arizona, evictions increased by 12.5% and homelessness increased by 10%
  - Senate Bill 34 in Utah proposes permitting ADUs in single-family areas, encouraging high-density housing near mass transit, reducing impact fees, and withholding transportation funds from cities that do not encourage moderately-priced housing

**Nikki Watson**, also representing Saguaro Desert Land, Inc., presented the following additional information:

- Affordable housing is needed for working families who do not qualify for government aid yet struggle to find housing that requires 30% or less of their income
- The new school on Avenue 6E will help solve the problems of traffic issues and overcrowding in schools as many students who live near Avenues 6E, 7E, and 8E attend school on 24<sup>th</sup> Street
- Higher-value stable workforce housing typically does not have a negative effect on property values; for example, home values in the area of the Sunset Mountain townhomes have seen an average increase of 46% since 2013
- Long development timelines – sometimes as long as 10-12 years – make it difficult to determine at this point what will be able to be marketed and sold
- The City of Yuma General Plan calls for Medium Density R-2 development for this parcel, and R-2 zoning includes condominiums, townhomes, and apartments

#### Speakers

- **Luis Arroyo**, 2664 S. Pinedale Ave., questioned the suitability of the site for medium density residential zoning and expressed concern that the applicant cannot provide more specific information regarding what will be built on the site.
- **Austin Arroyo**, 2664 S. Pinedale Ave., shared his experience as a student in the neighboring schools and opined that the rezoning would worsen already overcrowded classes and existing traffic issues.

- **Dulce Arroyo**, 2664 S. Pinedale Ave., expressed her opposition to the rezoning, citing overcrowding in the schools and the many empty houses currently in the area.
- **Donna White**, 12388 E. Del Rico, reminded City Council that the citizens of Yuma voted against the zoning change two years ago and stated that the will of the people needs to be respected, adding that the Special Election cost taxpayers more than \$75,000.

**Motion** (Thomas/Knight): To close the Public Hearing. Voice vote: **approved** 6-0; Public Hearing closed at 6:46 p.m.

#### Discussion

**Thomas** asked if City staff reached out to the applicant to determine whether there were any changes from the original request. **Linville** stated that City staff contacted the applicant in July and again in October. **Thomas** stated that because the applicant has not submitted any changes to something that the citizens of Yuma have already voted down, he did not believe the City should not attempt to usurp the will of the people.

**Shelton** stated that City Council is the final rung on the ladder in terms of the applicant convincing the public that this rezoning should go forward. The residents in the neighborhood were not convinced, nor was the Planning and Zoning Commission, and City staff indicates that the application is the same as that which was presented prior to the Special Election. Consequently, it is difficult for City Council to go forward with the rezoning.

**Knight** stated that while he was a part of the City Council that originally approved the rezoning in in 2015, he is an elected official who answers to the public. The public have made their voices loud and clear, and he does not see how he can vote against their wishes at this time.

**Mayor Nicholls** stated that in his opinion property rights are important and they are one of the things that make this country great as far as opportunity, but the will of the people is greater. It is common to have pushback from neighbors, however generally there is some give and take and in this case there were no change to the original application. He asked if the applicant would be willing to pull their application and resubmit a modified request. **Snow** replied that he does not know if he is ready to give an answer tonight and asked if the request could be tabled for two weeks to give the applicant some time to think about it.

**Thomas** asked if the applicant is willing to work with Community Development to ensure that the neighborhood's concerns are addressed. **Snow** responded that they would. **Thomas** clarified that his concern is that there were no changes from the original application, and asked if the applicant would work with City staff so that changes will be submitted. **Snow** stated that two of the applicant's recent subdivisions took more than a decade to get approved, and it would be impossible to guess what the market conditions will be like a decade from now. While he does not fault people for wanting to know what is going to be built, he also does not fault the applicant being unable to promise something that is eight or more years in the future. While he is not sure how to resolve that issue, they are willing to talk and listen. **Mayor Nicholls** stated that given the statistics presented at last night's Worksession, it seems that there is an immediate need and that it would not take years to get this built. He expressed hope that the applicant will be able to provide something a little bit more definitive for the neighbors, since even if City Council were to approve the rezoning it looks like it would go back before the voters.



**Snow** stated that the community needs to come to grips with the idea that housing affordability is becoming a national issue and that they cannot say no to every proposal just because it is in the suburbs. With all due respect to everyone's comments, the changes on Avenue 6E are substantial and will change traffic patterns and pressure on schools. The proposal may not have changed, but the circumstances under which that proposal came forward are very different. **Shelton** responded that City Council has said yes to rezoning requests in the face of opposition, referring to the apartments planned along Avenue B, and stated that each request is considered on a case-by-case basis. He pointed out that the applicant has had more than two years to figure out what it would take to placate the opposition.

**McClendon** acknowledged that while she recognized the need to revisit and potentially update the General Plan and the Joint Land Use Assumptions, she would be moving to deny the rezoning.

**Motion** (McClendon/Shelton) to deny Ordinance O2019-011.

**Bushong** displayed the following title:

**Ordinance O2019-011**

**An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, rezoning certain property located in Agriculture (AG) District to the Medium Density Residential (R-2) District and amending the zoning map to conform with the rezoning (the Planning and Zoning Commission failed to approve this rezoning at the meeting held on January 14, 2019) (DCD)**

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

**FINAL CALL**

**Mayor Nicholls** made a final call for the submission of Speaker Request Forms from members of the audience interested in speaking at the Call to the Public.

**VI. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING**

**Thomas, Shelton, Watts, Knight, and Mayor Nicholls** reported on events and meetings they have attended during the last two weeks and upcoming events of note.

**Shelton** stated that he would like to see a marketing plan for the Pacific Avenue Athletic Complex (PAAC) that highlights the events and teams coming to Yuma and gets the community excited. **Thomas** noted that the Parks and Recreation email newsletter mentions all of the upcoming events and it goes out to the community. **Shelton** also suggested a marquee near the PAAC that displays upcoming games and events. **Mayor Nicholls** asked Wilkinson to place this on a future agenda.

**VII. SUMMARY OF CURRENT EVENTS**

**Wilkinson** noted that he had the privilege of helping to judge the zoology category at the Yuma County Science and Engineering Expo, which is a joint collaboration between Yuma's elementary, middle, and high schools as well as Arizona Western College and the University of Arizona.

**Wilkinson** reported the following events:

- March 8<sup>th</sup> – Yuma Airshow at MCAS Yuma
- March 10<sup>th</sup> – 3:10 to Yuma Double Feature at the Historic Yuma Theatre
- March 16<sup>th</sup> – Day of Unity in the Mesa Heights neighborhood
- March 16<sup>th</sup> – Music on Main on Historic Main Street

**Wilkinson** announced that from nearly 50 applicants Deputy Chief of Police Susan Smith has been selected as the new Police Chief for the Yuma Police Department.

### VIII. CALL TO THE PUBLIC

**Luis Arroyo**, 2664 S. Pinedale Ave., pointed out that the Avenue 9E and 24<sup>th</sup> Street property is located along a Scenic/Historic Corridor pursuant to the City of Yuma 2012 General Plan and questioned whether the General Plan Amendment in 2015 changing the land use designation to Medium Density Residential should have ever taken place.

**Phil Clark**, 4296 W. County 15<sup>th</sup> St., noting a complaint filed against him with the Yuma County Sheriff's Office by the City Administrator, asked when the City Administrator was directed to make such a complaint as the City Administrator's office does not have the authority to make a complaint seeking prosecution.

### IX. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Nicholls** adjourned the meeting at 7:37 p.m. No Executive Session was held.

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Lynda L. Bushong, City Clerk

APPROVED:

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Douglas J. Nicholls, Mayor