

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
JULY 17, 2024
5:30 p.m.

CALL TO ORDER

Mayor Nicholls called the City Council meeting to order at 5:30 p.m.

INVOCATION/PLEDGE

Tom Renard, Zion Church, gave the invocation. **Alyssa Linville**, Director of Planning and Neighborhood Services, led the City Council in the Pledge of Allegiance.

ROLL CALL

Councilmembers Present: Morales, Smith, McClendon (via telephone), Morris, Shoop, Shelton, and Mayor Nicholls
Councilmembers Absent: None
Staffmembers Present: Acting City Administrator, John D. Simonton
Director of Utilities, Jeremy McCall
Director of Parks and Recreation, Eric Urfer
Police Captain, Anthony Legros
Senior Planner, Erika Peterson
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.

I. MOTION CONSENT AGENDA

Motion Consent Agenda Item C.5 – Ratification of Purchase Order: Emergency Sewer Bypass Smucker Park (ratify and approve a purchase order issued to Rain for Rent, Yuma, Arizona in an amount of \$129,236.96 for emergency bypass of a sanitary sewer line at Smucker Park) (Eng/Util/Fin)

Discussion

- During construction activity to improve the retention basin at Smucker Park, the contractor Meridian Construction Group damaged some of the City’s infrastructure. It was the responsibility of the City to mitigate the situation as an emergency repair. The cost incurred for the emergency repair will be forwarded to the City Attorney’s office to recover the cost of the repair from Yuma County.
(Shoop/McCall/Mayor Nicholls)

Shoop called for a motion to decline the allocation of the money. There being no second, the motion failed.

Motion (Morris/Morales): To adopt the Motion Consent Agenda as recommended. Voice vote: **approved 6-1, Shoop** voting Nay.

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

Regular Council Meeting Minutes	June 5, 2024
Special Council Meeting Minutes	June 18, 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. Approve a request submitted by David Johnson, Vice President of Turf Paradise, for the renewal of a Teletrack Wagering License at Showcase Sports Bar, located at 2703 S. 4th Avenue, with a term to expire on June 30, 2027, to coincide with the term of Turf Paradise's State License. (OTB24-01) (Admn/Clk)
2. Authorize the City Administrator to execute a two-year agreement for Offsite Fuel Card Services with the option to renew for three additional one-year periods, one period at a time, subject to the appropriation of funds and satisfactory performance to McNeece Bros. of Yuma, Arizona for an estimated annual expenditure of \$2,000,000.00. (RFP 24-284) (Pub Wrks/Purch)
3. Authorize the donation of a 1995 Pierce Arrow Pumper to the Town of Wellton, Arizona. (YFD)
4. Award to the four qualified bidders for Environmental Laboratory Testing Services, with the option to renew for four additional one-year periods, one period at a time, depending on the appropriation of funds and satisfactory performance for an estimated annual expenditure of \$172,000.00, with the following firms: Eurofins Easton Analytical, LLC., Pomona, California; Eurofins Environment Testing Southwest, LLC., Phoenix, Arizona; SGS North America Inc., Rutherford, New Jersey; Tempe, Arizona; Turner Laboratories, Inc., Tucson, Arizona. (RFP-24-297) (Utl/Purch)
5. Ratify and approve a purchase order issued to Rain for Rent, Yuma, Arizona in an amount of \$129,236.96 for emergency bypass of a sanitary sewer line at Smucker Park. (EM-24-285) (Eng/Utl/Purch)

II. RESOLUTION CONSENT AGENDA

Resolution R2024-036 – 2024 Parks, Arts, Recreation and Trails Master Plan (approve the request to adopt the 2024 Parks, Arts, Recreation & Trails Master Plan) (Pks & Rec)

Discussion

- There are items within the Parks, Arts, Recreation and Trails Master Plan that have not been thoroughly discussed and changes may need to be made down the line. Approving the resolution tonight will put the tentative 10-year master plan in motion, yet still have the ability to make adjustments to the plan as needed. (Morris)

Motion (Smith/Morales): To adopt the Resolution Consent Agenda as recommended.

Bushong displayed the following title(s):

Resolution R2024-036

A resolution of the City Council of the City of Yuma, Arizona, adopting the 2024 Parks, Arts, Recreation & Trails Master Plan (planning and development guide for Yuma’s Parks and Recreation Department, and serves as the strategic plan for the planning period of 2024 to 2035) (Pks & Rec/Admn)

Resolution R2024-037

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the Memorandum of Understanding between the City of Yuma and Yuma County Airport Authority creating a Cooperative Operational Security Plan (to comply with the requirements of the Code of Federal Regulations to have an Airport Security Program to provide for the safety and security of persons and property on an aircraft) (YPD)

Resolution R2024-038

A resolution of the City Council of the City of Yuma, Arizona, authorizing the City of Yuma to enter into an Intergovernmental Agreement with United States Border Patrol Yuma (allow United State Border Patrol-Yuma to use the City of Yuma Public Safety Training Facility for training of their personnel) (YPD/Supt Svcs)

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

III. ADOPTION OF ORDINANCES CONSENT AGENDA

Ordinance O2024-024 – Amend Yuma City Code: Regulating Parks Within the City (adopt a City ordinance to update current park operations and address ongoing issues in the parks) (Pks & Rec)

Discussion:

- There are 20 locations that are proposed for early closure and 28 locations that would stay open until 11:00 p.m. The Parks and Recreation page on the City of Yuma website has a GIS map with park locations and information on what amenities they have and whether they are being proposed for early closure or staying open until 11:00 p.m. If the community has questions about park closures, or they would like to discuss their neighborhood park being open longer than the proposed closing time, they are encouraged to contact the Parks and Recreation Department directly. **(Shelton/Urfer)**
- The flexibility of the proposed ordinance is appreciated. People from the community that have reached out are okay with the proposed closing times of the parks. There might have been some confusion about all parks closing at 9:00 p.m., but once that information was cleared up the response from the community has been positive. **(Smith)**
- On the GIS map there are two different colors when looking up the parks. The parks that are highlighted in purple are the parks with potential early closing times. The parks highlighted in the aqua color are the parks that will remain open until 11:00 p.m. This will help illustrate that parks are evenly spread out throughout the City according to their closing times. **(Morris/Urfer)**
- Depending on the number of lumens that enters from the ancillary lighting, a park may be able to stay open later than 9:00 p.m. Some parks that were in the 9:00 p.m. closure list were moved to the 11:00 p.m. closure list due to having adequate lighting. Closing times other than 9:00 p.m. and 11:00 p.m. could also be considered. **(Morris/Urfer)**

- The concerns the community has when hearing parks will be closing early is understandable, but the changes will affect a limited number of parks and for a limited amount of hours. The change is based on community feedback and concerns with the activities taking place within the parks. The fact that closing times for the parks can be modified without having to amend the City Code to make adjustments is a great benefit. (**Morris/Urfer**)
- The proposed ordinance is in response to City staff and City residents. The change impacts everyone in the community in a positive way. (**Morales**)
- It is important to note that the changes were also brought forward by the Yuma Police Department (YPD), who patrol the parks and have direct knowledge of the events that take place there. Taking their recommendations will not prevent bad things from happening, but it can prevent the number of unfortunate incidents from happening. YPD's recommendation is something to take into serious consideration and balance it with taxpayers wishes and access to their investments in the community. The flexibility of the proposed ordinance models that not everything needs to come from the dais to be effective; the way it was put together is appreciated. (**Mayor Nicholls**)

Speakers

J.P. Mahon, City resident, spoke in opposition of the proposed 9:00 p.m. closing time for parks. **Mahon** referred to a study done by the National Institute of Health in 2022 where it was found that park quantity, quality, and accessibility are strong predictors of overall wellbeing, and he believes closing the parks early is contradictory to this study. **Mahon** also comments on the Class 2 Misdemeanor charge for violating park hours and suggested a tiered system for offenders, where offenders receive a warning for their first offense and stricter penalties for repeated offenses.

Cynthia Tovar, City resident, spoke in opposition of the proposed park closure times. **Tovar** stated that one of the reasons given by the Parks & Recreation Department for closing the parks early was lack of lighting; **Tovar** suggested the City install adequate lighting at all parks. **Mayor Nicholls** explained that the cost to install additional lights in all the parks is expensive and would take an extensive amount of time to make that happen. In addition, not all residents are in favor of more lights in their neighborhood parks. However, it has been discussed in the past with the Parks and Recreation Department that some parks would benefit from additional lighting, but that is a project that is approved through the Capital Improvement Plan. **Tovar** compared the cost of installation of lights to the new signage that will be posted showing the new park hours. **Mayor Nicholls** let her know that cost for signage is not nearly as much as the cost of installing more lights in the parks. **Tovar** then spoke about the recent proposal to increase Mayor and City Council salaries and how the proposal indicates there is funds available, and she believes that money should be used to keep the City safe and inclusive. **Mayor Nicholls** reiterated the fact that it takes time to develop and execute large projects. **Tovar** shifted the conversation and spoke about the Class 2 Misdemeanor charge for violating park hours and believes the charge is excessive and discriminatory and suggested a tiered system for violations instead. **Mayor Nicholls** stated there is no proposal to change the Class 2 Misdemeanor charge that has been in place. **Tovar** then asked for proof of crimes committed at the parks that initiated the early park closures. **Simonton** will gather the information from the Yuma Police Department to provide to **Tovar**.

Eleanor Sayles, City resident, believes more time is needed for the community to get familiar with the proposed ordinance and clear up any miscommunication from the City to the community. **Sayles** speculated the increase in crime in the parks is due to the homeless population and thinks that problem should be handled first before it is uncontrollable.

Alea Hassin, City resident, disagrees with the Class 2 Misdemeanor charge for violating the park hours and would like to see a tiered system as suggested by Mr. Mahon. **Mayor Nicholls** explained that additional research needs to be done to put a tiered system in place for violations. **Mayor Nicholls** also informed **Hassin** that the change she suggested is a type of legal development and the proposed change in the ordinance is an operational change. **Hassin** proposed postponing adoption of the ordinance to allow additional research to be done and asked for data to support the proposed changes due to crime.

Jillian Verdugo, City resident, spoke about the Class 2 Misdemeanor charge for violation of park hours and explained the potential for discrimination and misuse if left to the discretion of the City Police Officers. **Verdugo** believes the City should invest in the smaller, less equipped neighborhood parks for equal accessibility to the parks for tax payers.

Discussion

- If the Ordinance is approved, the community still has the ability to speak to the City about the issue. The public can reach out to the Parks, Arts & Recreation Commission, which serves as the liaison between City residents and City Administration. The Director of the Parks & Recreation Department, Eric Urfer, has also invited the public to reach out to him directly. The discussion does not have to end tonight. The City Council is here to serve the community, but we need good communication. (**Morales**)
- Class 2 Misdemeanors are a category of misdemeanor crimes in Arizona that can carry up to four months of jail time, and \$750 in fines, although fines can increase. There may be probation, other penalties such as a collateral consequence, community service, and paying restitution. It is a very low-level penalty. (**Shelton/Legros**)
- At this point there is too much confusion about the proposed ordinance and more publicity needs to be put out to the public to clarify the confusion before City Council votes. (**Shelton**)
- If the proposed ordinance is adopted tonight, just like any other ordinance, there is a 30-day period before it goes into effect; it does not mean those parks will start closing two hours earlier beginning tonight. Furthermore, the reason for the proposed changes is due to concerns brought to City Council from the Yuma Police Department and the Parks and Recreation Department. One concern that has not been brought to the City Council's attention is unjust arrests for Class 2 Misdemeanors. Giving the police the ability to enforce this law is not a concern. (**Morris**)
- It is important to note the flexibility of the proposed ordinance; the park hours can be changed without amending the City Code, if necessary. If a community member wants talk about the park hours in their neighborhood and possibly extend the closing time, it can be done. Regarding petitions going around the community, it is important to remember that petition signers need to live in the City of Yuma. (**Smith**)
- We need to remember that the City is trying to move forward into the future. Taking direction from the Yuma Police Department and moving into the next phase of the Parks & Recreation Master Plan is moving the City ahead. It is important to follow that strategy with the proposed ordinance. Furthermore, there were emails received in opposition of the early park closures, but once it was realized that the parks that were mostly affected were small neighborhood parks, the emails received were in favor of the change, and it was appreciated that a permit could be used to be able to stay at the park after closing time if needed. (**McClendon**)

Ordinance O2024-025 – City of Yuma 2024 Special Election (Call for a Special Election to be held in conjunction with the General Election scheduled on November 5, 2024, for the purpose of

determining whether to amend the Yuma City charter, Article VI, Section 14a, relating to City Council compensation) (Admn/Clk)

Speaker

Dennis Franklin, City resident, feels City Council compensation should be adjusted for inflation and not dollar value. The population has increased, tax dollars have increased, and responsibilities of the City Council have increased, therefore there should be a pay increase based on population. **Franklin** suggested to include language in the City Charter to review City Council compensation every three years and adjust the pay accordingly.

Gary Wright, City resident, suggested to City Council to make Public Safety a priority before holding a Special Election for the City Council pay increase. **Wright** explained that crime has increased substantially from previous years and investing in Public Safety salaries and hiring more Public Safety personnel to help keep the citizens of Yuma safe should be a main concern; the salary increase for City Council should be revisited another time. **Wright** also asked for transparency in the matter of City Council receiving health benefits during their term.

Motion (Morris/Morales): To adopt Ordinance O2024-024 as recommended.

Bushong displayed the following title(s):

Ordinance O2024-024

An ordinance of the City Council of the City of Yuma, Arizona, amending Title 17, Chapter 170 of the Yuma City Code regulating parks within the City (provides the Director of Parks and Recreation the authority and flexibility to adopt or modify rules necessary for the daily operations and maintenance of City parks) (Pks & Rec/Pks)

Roll call vote: **adopted** 6-1, **Shelton** voting nay.

Motion (Smith/Morris) To adopt the Ordinances Consent Agenda as recommended, with the exception of Ordinance O2024-024 which was approved through a previous vote.

Bushong displayed the following titles(s):

Ordinance O2024-025

An ordinance of the City Council of the City of Yuma, Arizona, ordering a Special Election to be held in conjunction with the 2024 General Election; designating the purpose, election date, voter registration deadline and providing for publicity pamphlets (for the purpose of determining whether to amend the Yuma City Charter, Article IV, Section 14a, relating to City Council Compensation) (Admn/Clk)

Ordinance O2024-026

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 the Light Industrial/Infill Overlay (L-I/IO) District to the Low Density Residential/Infill Overlay (R-1-6/IO) District, and amending the zoning map to conform with the rezoning (to rezone approximately 6,690 sqft lot for property at 1712 S. Maple Avenue) (Plng & Nbhd Svcs/Cmty Plng)

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

INTRODUCTION OF ORDINANCES

Ordinance O2024-021 – Rezoning of Property: Northwest Corner of 28th Street and Avenue B (approve the rezoning of an approximately .51-acre lot from the Agriculture (AG) district to the Limited Commercial (B-1) District, for the property located on the northwest corner of 28th Street and Avenue B, Yuma, AZ) (Plng & Nbhd Svcs/Cmty Plng)

Motion (Morales/Smith) To continue Ordinance O2024-021 to a future City Council Meeting at the request of the applicant.

Voice vote: **approved** 7-0.

IV. PUBLIC HEARING

Mayor Nicholls opened the public hearing at 6:45 p.m.

Resolution R2024-039 – General Plan Amendment: Yuma Development One (following a public hearing, approve the request to amend the City of Yuma General Plan to change the land use designation from Commercial to Medium Density Residential, for the property located at the northwest corner of 34th Street and DeVane Drive) (Plng & Nbhd Svcs/Cmty Plng)

Erika Peterson presented the following information:

- This is a Minor General Plan Amendment for the property located at the northwest corner of East 34th Street and South DeVane Drive
- The property is approximately 11.78 acres, currently undeveloped
- Surrounding Land Uses:
 - North – Undeveloped
 - South – Single-family homes
 - East – Apartments
 - West - Undeveloped
- It is the property owners' intent to rezone from Commercial to Medium Density Residential for the development of townhomes
- There is a potential increase in the maximum number of dwellings by 152 dwellings and a population increase by 315 persons
- A neighborhood meeting was held on-site and had one neighbor in attendance who was in support of the request
- The Planning and Zoning Commission recommended approval on June 10, 2024

Motion (Smith/Morales): To close the Public Hearing. Voice vote: **approved** 7-0. The Public Hearing closed at 6:47p.m.

Motion (Smith/Morris) To adopt Resolution R2024-039 as recommended.

Bushong displayed the following title(s):

Resolution R2024-039

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 11.78 acres

from Commercial to Medium Density Residential located at the Northwest corner of 34th Street and DeVane Drive (rezoning to Medium Density Residential for the development of townhomes) (Plng & Nbhd Svcs/Cmty Plng)

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

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.

V. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Announcements

Smith and **Mayor Nicholls** reported on the following meetings attended/upcoming events:

- Western Arizona Council of Governments (WACOG) Executive Board Annual Meeting
- Greater Yuma Water Safety Alliance Monthly Meeting
- 4th of July Fireworks Spectacular
- Yuma Police Department Promotion Celebration
- Presentation of Life Saving Award and Press Conference at Fire Station #1
- Yuma Regional Medical Center Art Heals Celebration
- Good morning Yuma
- Exceptional Health Hospital CPR/First Aid Training Event
- Yuma Metropolitan Planning Organization Long-Range Transportation Plan Meeting
- Meeting with Colonel John Nelson, Yuma Proving Ground, updates on current issues
- Meeting with Chief Thomas Garrity, Yuma Police Department, updates on current issues
- Elevate Southwest Board Meeting
- Greater Yuma Port Authority Board Meeting
- Caballeros de Yuma 38th Annual Independence Flag Raising Ceremony
- Meeting with Colonel Jared K. Stone, Commanding Officer MCAS – Yuma
- Arizona Defense and Industry Coalition Roundtable Meeting

Scheduling - No meetings were scheduled at this time.

VI. SUMMARY OF CURRENT EVENTS

Simonton reported the following events:

- July 20 – Back to School Rodeo – Yuma Civic Center
- July 20 – Infinite Imagination Youth Theater Program Presents Mean Girls Jr. – Historic Yuma Theater

Simonton reminded the community of the Primary Election to be held on July 30th. He also encouraged the public to participate in the Yuma Metropolitan Planning Organization's (YMPO) online transportation

survey. ADOT will use the results of the survey in the YMPO and the City of Yuma Long-Range Transportation Plan.

Morales exited the meeting at 6:57 p.m. to attend a prior engagement.

VII. CALL TO THE PUBLIC

Brannick Harris, City resident, and Vice Chair of the Parks, Arts and Recreation Commission, spoke in favor of the proposed closure times of the parks, and the Parks Master Plan. He also spoke about the importance of community input by survey participation and Council Meeting attendance.

Cynthia Tovar, City Resident, requested the City of Yuma adopt a resolution calling for a ceasefire in Gaza.

Bill Gibbs, City resident, spoke about ongoing issues with Allo and the fiber installation at the Orchard Gardens Co-Op RV Park.

Elena Lopez, City resident, requested the City of Yuma adopt a resolution calling for a ceasefire in Gaza.

Ricardo Gill, City resident, spoke in opposition of the proposed park closure times and the risks of heat related illnesses.

Alea Hassin, City resident, spoke about concerns regarding censorship of the public by City Council.

VIII. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Nicholls** adjourned the meeting at 7:26 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: _____
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