

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
FEBRUARY 19, 2025
5:30 p.m.

CALL TO ORDER

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

INVOCATION/PLEDGE

Pastor John Welcher, Immanuel Southern Baptist Church, gave the invocation. **Karla Bailey**, Assistant Director of Finance, 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, McClendon, Morris, Watts, Martinez, and Mayor Nicholls
Councilmembers Absent:	None
Staffmembers Present:	Acting City Administrator, John D. Simonton Director of Finance, Doug Allen Senior Planner, Erika Peterson Director of Engineering, Dave Wostenberg Various Department Heads or their representative City Attorney, Richard W. Files City Clerk, Lynda L. Bushong

FY 2024 Audit Results

Allen introduced **Brian Hemmerle**, Lead Audit Principal with Baker Tilly, LLC, who presented the following information:

- Audit Results Summary
 - Audit was completed of the financial statements of the City of Yuma for the year ending June 30, 2024
 - The Financial Statement Audit Report is related to the Annual Comprehensive Financial Report
 - The City received an unmodified opinion
 - A clean opinion
 - No disclaimers of instances needed to be reported for financial statements
 - Government Auditing Standards Compliance Report
 - Report on compliance with laws, regulations, contracts, grant agreements, debt covenants
 - No instances of non-compliance
 - There was a restatement for the equity at the City for net position related to Transaction Privilege Tax at the end of the year

- Findings
 - A material weakness is a deficiency in internal control where there is a possibility that a material misstatement of the entity's financial statements will not be prevented, detected, or corrected in a timely basis. The following deficiencies were identified as material weaknesses:
 - Restatement of Transaction Privilege Tax (TPT) Sales Tax Revenue and Receivables
 - According to Generally Accepted Accounting Principles (GAAP), Governmental Accounting Standard Board Statement 33, tax revenues and receivables should be recorded into the period in which they are earned and measurable
 - City TPT Sale Taxes are being recorded based on when the State collected the tax from the merchants
 - City TPT Sales Taxes should be recorded based on the period the underlying transaction occurred between the merchant and their customer
 - Accurate financial reporting is essential for providing reliable information to stakeholders and ensuring compliance with regulatory requirements
 - Material weakness which was identified in the prior year was remediated during the current year:
 - Prior year's Utility Revenue Accrual Finding
- Independent Auditors Responsibilities
 - Planning and performing the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. Reasonable assurance is a high level of assurance, but not an absolute level of assurance.
 - An absolute level of assurance would require testing of every transaction at the City, which is very time consuming and expensive
 - Under accounting and auditing standards, reasonable assurance is what is required by state statute
 - Assessing the risks of material misstatement of the basic financial statements whether due to fraud or error. Included in that assessment is a consideration of the City's internal control over financial reporting.
 - Performing appropriate procedures based upon our risk assessment
 - Evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management
 - Forming and expressing an opinion based on our audit about whether the basic financial statements prepared by management, with the oversight of those charged with governance:
 - Are free from material misstatement
 - Present fairly in all material respects and in accordance with accounting principles generally accepted in the United States of America
 - Performing tests related to compliance with certain provisions of laws, regulations, contracts and grants, as required by Government Auditing Standards
 - Considering internal control over compliance with requirements that could have a direct and material effect on major federal programs to design tests of both controls and compliance with identified requirements
 - Forming and expressing an opinion based on our audit in accordance with the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Uniform Guidance) about the entity's compliance with requirements described on the OMB compliance supplement that could have a direct and material effect on each of its major federal programs

- Baker Tilly's audit of the basic financial statements does not relieve management or those charged with governance of their responsibilities
- Communicate significant matters related to the audit that are relevant to the responsibilities of those charged with governance including:
 - Internal control matters
 - Various controls have been tested with no reportable findings
 - Qualitative aspects of the City's accounting practice including policies, accounting estimates and financial statement disclosures
 - This can be found on Note 1 of the financial statements
 - No disagreements with management on the way accounting practices and policies are reported
 - Significant difficulties encountered
 - No difficulties to report
 - Disagreements with management
 - No disagreements to report
 - Circumstances that affect the form and content of the auditors' report and key audit matters
 - None noted
 - Audit consultations outside the engagement team
 - None noted
 - Corrected and uncorrected misstatements
 - One restatement reported for TPT Sales Tax Revenue Recognition
 - Other audit finding or issues
 - No other audit finding to report
- Non-Attest Services
 - The following non-audit services were provided by Baker Tilly:
 - Adjusting journal entries
 - Verified they are prepared correctly
 - Preparation of the auditee section of the Data Collection Form
 - A Data Collection Form is a single audit for any federal funds spent over \$750,000 within the year
 - A Governmental Accounting Standards (GASB) Board No. 34 conversion entries which are summarized in the "Reconciliation of the Balance Sheet of Governmental Funds to the Statement of Net Position" and the "Reconciliation of the Statement of Revenues, Expenditures, and Changes in Fund Balances of Governmental Funds to the Statement of Activities" in the financial statements was also done
 - Federal Single Audit and State Expenditure Limitations
 - City expended \$8,496,535 of federal funds in Fiscal Year 2024
 - Major programs were:
 - Community Development Block Grant
 - Formula Grants for Rural Areas and Tribal Transit Program
 - COVID-19 Coronavirus State and Local Fiscal Recovery Funds
 - City received an unmodified opinion on all federal major programs tested
 - Expenditure Limitation Examination Report
 - Required by the Arizona State Statutes
 - City's expenditure limitation was \$160,820,335 for Fiscal Year 2024

- The City used carryforward provisions to meet their expenditure limitation for Fiscal Year 2024
 - Please note, the City may not have enough carryforward provisions to allow the City to meet their future expenditure limitations without future action
 - Report was issued to the Arizona State Auditor General's office timely
- Management Discussion and Analysis (MD&A) – Key Financial Highlights
 - The MD&A is an integral part of the Annual Comprehensive Financial Report
 - No opinions are provided on MD&A
 - Highlights from this year's MD&A are:
 - General Fund
 - Fund balance increased by \$8,670,235, net of an adjustment to beginning fund balance of \$2,745,659. This was mainly as a result of increases in tax revenue, intergovernmental revenue, charges for service, and interest
 - Enterprise Funds
 - Self-sustaining funds, the charges for services should cover the expenses for the year
 - Water fund – Operating revenues exceeding operating expenses by \$4.3 million, contributing to a positive change in net position of \$9.2 million
 - Wastewater fund – Operating expenses exceeded operating revenues by \$2 million for an operating loss. This was offset by net investment revenues of close to \$3 million and capital contributions of almost \$4.2 million, which contributed to a positive change in net position of \$4.9 million

Discussion

- The expenditure limitation is an amount set by the State of Arizona that lets the City know they cannot spend over the set amount each year. For many cities and towns, the amount of funds coming in are being spent and the money that is already there is not, so there is no overspending. This is not, and should not, be related to tax increases at all. (**Mayor Nicholls/Hemmerle**)

I. MOTION CONSENT AGENDA

Motion Consent Agenda Item C.3 – Bid Award: Traffic Management Center (Award a construction services contract for tenant improvements at the City of Yuma Public Works Building for a Traffic Management Center, to the lowest responsible bidder in the amount of \$270,382.46 to Merrill Development, Yuma, Arizona) (RFB-25-192) (Eng/Proc)

Mayor Nicholls declared a conflict of interest on Motion Consent Agenda Item C.1, due to his firm's involvement in preparing the plans for the bid, turned the meeting over to **Deputy Mayor Smith**, and left the dais.

Motion (Morales/Watts): To approve Motion Consent Item C.3 as recommended. Voice vote: **approved** 6-0-1, **Mayor Nicholls** abstaining due to conflict of interest.

Mayor Nicholls returned to the dais

Motion (Morris/Morales): To approve the Motion Consent Agenda as recommended, with the exception of Item C.3, which was adopted through a previous vote. Voice vote: **approved** 7-0.

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

Regular Council Meeting Minutes

December 18, 2024

Regular Council Meeting Minutes

January 14, 2025

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 Series #06: Bar Liquor License application submitted by Susan Hwang, agent for Mama Su Bar & Lounge located at 1893 E. 16th Street. (LL25-01) (Admn/ Clk)
2. Approve a Series #06: Bar Liquor License application submitted by Katherine Espinal, agent for Sun of a Gun Cigars located at 1651 S. Arizona Ave. (LL25-02) (Admn/ Clk)
3. Pulled for separate consideration; see above.
4. Award to the lowest responsive and responsible bidders for Turf Irrigation Supplies, a one-year contract with option to renew for four additional one-year periods depending on the appropriation of funds and satisfactory performance to Yuma Nursery LLC, Yuma, Arizona and SiteOne Landscape Supply, Cleveland, Ohio. (RFB-25-124) (Pks & Rec/ Purch)
5. Authorize the purchase of a Dump Truck and a Water Tank Truck utilizing a cooperative purchase agreement through Houston-Galveston Area Council, for an estimated expenditure of \$411,483.75 to Rush Truck Center of Yuma, Yuma, Arizona. (CPA-25-250) (Pks & Rec/Purch)
6. Award a one-year contract to multiple vendors for the purchase and delivery of Tires, Tubes, and Services under a State of Arizona cooperative purchase agreement. The contracts are renewable for four additional one-year terms, depending on the appropriation of funds and satisfactory performance at an estimated annual cost of \$270,000.00 (including tax) to: Active Tire LLC dba Ed Whiteheads Tire, Yuma, Arizona; Corcoran Tire & Recapping Company, Yuma, Arizona; East Bay Tire Company, Yuma, Arizona; Purcell Tire & Rubber Company, Yuma, Arizona; Majco LLC dba Big Brand Tire and Service, Yuma, Arizona. (CPA-25-253) (Publ Wks/ Purch)
7. Award a one-year contract for Physical Exams and Occupational Health Services, with the option to renew for four additional one-year periods, at an estimated annual expenditure of \$149,316.00, depending on the appropriation of funds and satisfactory performance to Professional Health Services, Inc., Broomall, Pennsylvania. (RFP-25-084) (Fire/ Purch)
8. Authorize the retirement and transfer of ownership of Yuma Police Department canine to the assigned handler. (YPD)

II. RESOLUTION CONSENT AGENDA

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

Bushong displayed the following title(s):

Resolution R2025-012

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Memorandum of Understanding between the City of Yuma and Marine Corps Air Station, Yuma, Arizona for Law Enforcement Jurisdiction and Procedures (to allow the Yuma Police Department to investigate criminal activity and take law enforcement action aboard MCAS Yuma) (YPD)

Resolution R2025-013

A resolution of the City Council of the City of Yuma, Arizona, approving and authorizing an Intergovernmental Agreement with the Crane Elementary School District No. 13, regarding the delivery of storm water from a retention basin to a soccer field at Mesquite Elementary School. (outlines the terms/conditions of City stormwater discharge from the La Quinta retention basin onto the school district's property) (Eng)

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

III. ADOPTION OF ORDINANCES CONSENT AGENDA

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

Bushong displayed the following title(s):

Ordinance O2025-004

An ordinance of the City Council of the City of Yuma, Arizona, authorizing the acceptance of gift property (acceptance of real property from The Jacobson Companies, Inc. for access and utilities to new property for The Church of Jesus Christ of Latter-day Saints temple) (Eng)

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

IV. INTRODUCTION OF ORDINANCES

Bushong displayed the following title(s):

Ordinance O2025-003

An ordinance of the City Council of the City of Yuma, Arizona, authorizing the acceptance of gift property (south half of City 48th Street gifted through Yuma Sunshine Investments) (Eng)

Ordinance O2025-005

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 Agriculture (AG) District to the Limited Commercial (B-1) District, and amending the zoning map to conform with the rezoning (for development of medical facilities) (Plng & Nbhd Svcs/Cmty Plng)

V. PUBLIC HEARING

Mayor Nicholls opened the public hearing at 5:50 p.m.

MC 2025-023 – Public Hearing: Biennial Development Fee Audit (Conduct a public hearing on the Development Fee Biennial Certified Audit in accordance with Arizona Revised Statutes (A.R.S.) § 9-463.05 and Yuma City Code § 157.05) (Fin/Eng)

Hemmerle presented the following information:

- Biannual audit of the developer impact fees is required by Arizona Statute (A.R.S.) § 9-463.05 section G.2 and Yuma City Code § 157.05
 - To provide for the Biannual Certified Audit of the City's Land Use Assumption, Infrastructure Improvement Plan and Development Impact Fees
 - Steps to confirm statute requirements are being met:
 - Select a sample of 40 receipts related to the Infrastructure Improvement Plan and determine if the fees were charged in accordance with the authorized Infrastructure Improvement Plan fee schedule
 - No exceptions on 40 receipts, they were all correct
 - Recalculate fees for a sample of 40 transactions related to the City's Infrastructure Improvement Plan to determine that each developer unit is charged the same rate as another equivalent developer unit to demonstrate in equities and level of service as interpreted by the City's management
 - No exceptions found
 - Select a sample of 40 expenditures related to the City's Infrastructure Improvement Plan and determine that the expenditures were associated with an approved project for the Infrastructure Improvement Plan
 - No exceptions found

William Katz, in-house counsel for Halls General Contractor, LLC, spoke in regard to the audit results and asked the City to reject the audit because he believes the audit is not in compliance with Arizona Statute (A.R.S.) § 9-463.05. Section G.2. The statute requires the auditor look at Land Use Assumptions, track Land Use Assumptions, and give the City input as to the Land Use Assumptions passed in 2019, and according to **Katz** these requirements were not met along with other stipulations in the statute. As a result, the Halls General Contractor, LLC will be entering an objection to the audit.

Mayor Nicholls requested **Katz** email him the information he had regarding previous Biennial Development Fee audits to compare with the current audit, and verify the City is complying with the statute. **Katz** agreed to email the information to the Mayor.

Motion (Morales/Watts): To close the Public Hearing. Voice vote: **approved 7-0**. The Public Hearing closed at 5:56 p.m.

Discussion

- There are two ways to conduct the Biennial Development Fee audit. One way is to hire an advisory tax and assurance firm, like Baker Tilly, to conduct an audit by looking into financial transactions. The other is hiring an engineering firm to come in and look into the progress of infrastructure plans and verify the requirements of the audit statute are being met. Baker Tilly's Certified Public

Accountants (CPA's) do not have the expertise or licensing to say whether a development plan is meeting its progression according to the statute. (**Mayor Nicholls/Hammerle**)

- There will be no action from City Council on the audit; it is for informational purposes only, therefore it is technically not being accepted. It would be good to have a third opinion to make sure the audit process is correct. (**McClendon/Mayor Nicholls**)
- The information presented tonight is for Mayor and City Council. A follow-up can be done if requested. (**Simonton/Mayor Nicholls**)
- A public hearing is held 60 days after the audit is done; if a modification needs to be made the same process will be followed. (**Morris/Allen**)
- The third opinion is administrative, indicating that the audit results do not need to go before City Council, unless there is a change. If there is a change, a public hearing will be held once again, and the 60-day clock will start again. (**Simonton/Morales**)

Resolution R2025-014 – Major General Plan Amendment: Café Main Street Properties, 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 to Commercial, for the property located west of the W. 7th Street and S. 21st Avenue intersection) (Plng & Nbhd Svcs/Cmnty Plng)

Mayor Nicholls opened the public hearing at 6:02 p.m.

Peterson presented the following:

- Case Summary
 - General Plan Amendment for the property located at the West 7th Street and 21st Avenue intersection
 - Proposed Change: Low Density Residential to Commercial
 - Area: undeveloped, approximately 4.18 acres
 - Surrounding Land Uses:
 - North – Pecan Grove Elementary School
 - South – Company housing
 - East – Single-family homes & Desert Palms Motor Home (HM) & Recreational Vehicle (RV) Park
 - West – Single-family residence and City of Yuma retention basin
 - Development Potential
 - Proposed project – Pursue a rezone for future company housing
 - Neighborhood meeting held on site, with no one from the public in attendance
 - Staff received a phone call from a neighboring property owner inquiring about the request and the notification they received; the request was explained to the neighboring property owner, and he had no further questions
 - On January 13, 2025, the Planning and Zoning Commission recommended approval of this request

Motion (Smith/Morales): To close the Public Hearing. Voice vote: **approved** 7-0. The Public Hearing closed at 6:04 p.m.

Discussion

- This type of housing is needed in Yuma, and it is good to see this amendment come through for approval. (Smith)
- Conditions are set at the rezone stage; once that stage is reached traffic and circulation will definitely be looked at. (McClendon/Peterson)
- The applicant is aware of the impact of traffic and the cars parked on both sides of the road on 21st Avenue, and on 24th Avenue, and has noted the information. (McClendon/Peterson)
- On-site parking based on the number of units is required by the Company Housing Development Standards. It is also required to have parking for busses or in situations where carpooling vans are used. (Morris/Peterson)
- In the future this housing development could transition to a different type of housing if the applicant chose to change it, but the development standards specify how much parking would be required based on the number of units. (Morris/Peterson)
- A Traffic Impact Statement (TIS) will be required when rezoning the property. The TIS will illustrate how the owner plans on transporting people in and out of the complex, how many trips are planned, and what the peak hours of those trips are going to be, to help find traffic patterns of daily operations. (Morris/Wostenberg)
- Once the property is rezoned to Commercial, only one traffic study is done. If the property transitions in the future to apartments, for example, the traffic study will remain the same causing a different traffic pattern and different volume of traffic. (Morris/Wostenberg)
- In the predevelopment meeting, it was discussed that people driving up from San Luis and then catching the bus to work and not living in the complex will park on-site at the complex. This will require the property to open up their gates to prevent vehicles parking along the side of the road. (McClendon/Wostenberg)

Motion (Morris/Smith): To adopt the Resolution R2025-014 as recommended.

Bushong displayed the following title(s):

Resolution R2025-014

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 4.18 acres west of the W. 7th Street and S. 21st Avenue intersection from Low Density Residential to Commercial (rezoning for the development of company housing) (Plng & Nbhd Svcs/Cmtty Plng)

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

Resolution R2025-015 – Major General Plan Amendment: Calle Ocho Properties, 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 to Commercial, for the property located at 764 S. 21st Avenue) (Plng & Nbhd Svcs/Cmtty Plng)

Mayor Nicholls opened the public hearing at 6:11 p.m.

Peterson presented the following:

- Case Summary
 - Major General Plan Amendment for the property located at 764 South 21st Avenue
 - Propose Change: Low Density Residential to Commercial
 - Area: Approximately 4.3 acres
 - Property is currently developed with 21 buildings used for company housing. Additionally, there is a garage, an indoor recreation facility and a laundry area on the property
 - Applicant's intent is to pursue a rezoning for a portion of the site which is zoned High Density Residential to General Commercial which would match the remaining portion of the property
 - Access to the site is provided off 21st Avenue
 - A neighborhood meeting was held on site, no neighbors from the public were in attendance
 - Staff did not receive any additional phone calls or questions regarding the request.
 - Surrounding Land Uses:
 - North – Undeveloped
 - South – Retail, storage, restaurant, barbershop
 - East – Desert Palms MH & RV Park, corner market
 - West – Family dollar
 - Development Potential:
 - No new development is proposed at this time
 - Rezone the portion that is zoned High Density residential to the General Commercial District.
 - On January 13, 2025, the Planning and Zoning Commission recommended approval of the request

Motion (Smith/Morales): To close the Public Hearing. Voice vote: **approved** 7-0. The Public Hearing closed at 6:13 p.m.

Motion (Smith/Morales): To adopt the Resolution R2025-015 as recommended.

Bushong displayed the following title(s):

Resolution R2025-015

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 4.3 acres located at 764 S. 21st Avenue from Low Density Residential to Commercial (change the land use designation to General Commercial District (B-2) resulting in a single zoning designation for the property) (Plng & Nbhd Svcs/Cmty Plng)

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

VI. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Appointments

Motion (Morales/McClendon): to appoint Walt Schumacher to the Water and Sewer Commission, with a term expiration of December 31, 2029. Voice vote: **approved** 7-0.

Motion (Morris/McClendon): to appoint Joe Wehrle to the Design and Historic Review Commission, with a term expiration of December 31, 2026. Voice vote: **approved** 7-0.

Announcements

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

- Ride along with the City of Yuma Fire Department
- Silver Spur Rodeo Parade
- Amberly's Place 25th Anniversary Gala
- Yuma Water Safety Alliance Meeting
- Yuma County Chamber of Commerce Good Morning Yuma
- Arizona Capitol Times Morning Scoop Podcast
- Meeting with Yuma Police Chief Garrity
- Honeywell Aerospace Technologies Meeting
- League of Arizona Cities and Towns Executive Committee Meeting
- Tour of Special Airforce Unit at Marine Corp. Air Station – Yuma
- Rural Development Council Virtual Meeting
- Federal Funding Briefing held Virtually by the Arizona Governor's Office

Scheduling - No meetings scheduled at this time.

VII. SUMMARY OF CURRENT EVENTS

Simonton reported the following events:

- February 22nd & 23rd – BBQ & Brew Festival
- February 22nd – Archery Tournament Spring 2025
- February 22nd – Kids at Hope Concert Featuring Neal McCoy
- February 22nd – 24th Annual Yuma Child Burn Survivor Benefit Golf Tournament

Simonton informed Mayor Nicholls and City Councilmembers that a resolution is being prepared to memorialize the naming of a portion of Highway 95 in honor of former Councilmember Gary Knight.

VIII. CALL TO THE PUBLIC

Delsa Dixon, City resident, spoke on behalf of Beverly Cade, the National Association for the Advancement of Colored People (NAACP) Local Chapter 1016 President, and extended an invitation to the Mayor and City Councilmembers to attend a Black History Month Celebration honoring Yuma educators. The event will be held on February 22, 2025, at the Martin Luther King Jr. Youth Career Center.

William Katz, City resident, spoke regarding water and sewer system development fees collected by the City of Yuma from developers of new construction. He would like to know how the fees collected are being spent, and why the collection of fees is not currently on the 2019 Infrastructure Improvement Plan (IIP).

IX. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Nicholls** adjourned the meeting at 6:27 p.m. No Executive Session was held.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor

DRAFT

Approved at the City Council Meeting of:

City Clerk: _____