

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
JUNE 3, 2009
5:30 p.m.

CALL TO ORDER

Mayor Nelson called the City Council meeting to order.

INVOCATION/PLEDGE

Captain Jonathan Harvey of the Salvation Army gave the invocation. **Kay Eldridge**, Training and Development Program Manager, led the City Council in the pledge of allegiance.

ROLL CALL

Councilmembers Present: Shoop, Mendoza, Beeson, McClendon, Hieb, Johnson and Mayor Nelson
Councilmembers Absent: none
Staffmembers Present: City Administrator, Mark S. Watson
Deputy City Administrator, Bob Stull
City Attorney, Steven W. Moore
Various Department Heads or their representative
City Clerk, Brigitta M. Kuiper

FINAL CALL

Mayor Nelson made a final call for the submission of Speaker Request Forms from members of the audience.

PRESENTATIONS - none

COMMUNICATIONS / FACTUAL RESPONSES

Mayor Nelson moved the Public Hearing forward on the agenda to this point in the meeting.

VII. PUBLIC HEARING

Development Fee Appeal – Savant Estates Subdivision: A Public Hearing to allow the City Council to hear and decide the Savant Estates LLC/Pacesetter Homes LLC, Development Fee Appeal, pursuant to Yuma City Code, Section 157-04. The appeal seeks a credit against transportation development fees in the amount of \$153,430.00 and a refund of \$228,654.32, for a total of \$382,084.32 in credits and refunds. (Eng)

Moore: The Savant Estates developer and staff are requesting that this appeal be continued to the next Regular City Council Meeting to allow further negotiations.

Motion (Hieb/Beeson): To continue the Savant Estates Subdivision Development Fee Appeal to the Regular City Council Meeting of June 17, 2009. Voice vote: **adopted** 7-0.

I. CALL TO THE PUBLIC

Marlene Witherwax, President of the Casa Manana Homeowners Association, 1860 W. Camino Soledad, thanked the City for the work it performed on the streets in and around Casa Manana. She also spoke in support of the All-Mail Ballot Election process.

David Kaval, Chief Executive Office and Founder of the Golden Baseball League, 6111 Bollinger Road, San Ramon, California, expressed his appreciation for the City's support, including the maintenance of the ball field. He thanked the City Council for considering their proposed contract amendment.

II. MOTION CONSENT AGENDA

Motion (Shoop/McClendon): To adopt the Motion Consent Agenda as recommended. Voice vote: **approved 7-0.**

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

Regular Council Meeting	April 15, 2009
Special Worksession	May 5, 2009
Regular Worksession	May 5, 2009

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 Person and Location Transfer of a #7, Beer & Wine Bar, Liquor License application submitted by Jamie Shaaia, agent for Senora Night Club, 185 S. Main Street, Yuma, Arizona. (LL09-10) (Admin/Clerk)
3. Approve an amendment to the City of Yuma 2007-2010 CDBG Consolidated Plan and 2008 CDBG Action Plan that uses CDBG funds that were designated for the City from the American Recovery and Reinvestment Act of 2009. (Admin/EcDev)
4. Authorize the City Administrator to execute the Amendment of the Agreement with Diamond Sports Entertainment, Inc., dba The Golden Baseball League to modify the payment terms for the 2009 summer season. (P&R)

III. RESOLUTION CONSENT AGENDA

Mayor Nelson stated that each of the resolutions presented for consideration this evening will be addressed separately.

Kuiper displayed the following title:

Resolution R2009-30

A resolution of the City Council of the City of Yuma, Arizona, requiring the City Administrator to obtain City Council approval for employee vehicle allowances (Mayor and Council)

Motion (Johnson/McClendon): To amend Resolution R2009-30 by deleting the words immediately following the words "RESOLUTION R2009-30 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA" to and including the words "allowance as of June 30, 2009." in the proposed Resolution and replacing them with the following:

**TO ESTABLISH BUDGETARY POLICY REGARDING
PAYMENTS FOR THE USE OF PRIVATELY OWNED
MOTOR VEHICLES ON CITY BUSINESS**

WHEREAS, the City Charter of the City of Yuma, Arizona vests City Council of the City of Yuma, Arizona with the authority to approve city budgets and expenditures of city funds; and

WHEREAS, the City of Yuma, Arizona is experiencing sharply reduced revenues due to the critical economic conditions existing in the city, the State of Arizona and the United States; and

WHEREAS, it has come to the attention of the City Council of the City of Yuma, Arizona that some city employees and contractors are being requested to use their privately owned or leased motor vehicle(s) to perform official city business; and

WHEREAS, the City Council of the City of Yuma, Arizona, is aware of and recognizes the need to establish a uniform policy to fairly and equitably reimburse city employees who are requested to use their privately owned or leased motor vehicle(s) to perform official city business, and

WHEREAS, the City Council of the City of Yuma, Arizona is aware of and recognizes the need for Chief of Police, Fire Chief and City Administrator to have motor vehicles immediately available to them for use during their off duty hours in order to respond to emergent situations and other city business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma, Arizona as follows:

That it is in the public interest of the City and would be a public benefit to compensate the Chief of Police and the Fire Chief for the use of their privately owned or leased motor vehicle(s) by the payment of an appropriate monthly payment from the funds of the City of Yuma, Arizona, said monthly payment to be determined by the City Administrator; and

That it is in the public interest of the City and would be a public benefit to compensate the City Administrator for the use of the City Administrator's privately owned or leased motor vehicle(s) by the payment of an appropriate monthly payment from the funds of the City of Yuma, Arizona, said monthly payment to be determined by the City Council of the City of Yuma, Arizona; and

That it is in the public interest of the City and would be a public benefit to reimburse city employees and contractors for the use of their privately owned or leased motor vehicle(s) on official city business on the basis of actual miles driven while performing official city business when requested and authorized by appropriate city supervisory personal as designated by the City Administrator; and,

That no funds of the City of Yuma, Arizona shall be paid or disbursed in any manner to any city employee or contractor as compensation for the use of their privately owned or leased motor vehicle(s) on any basis other than actual miles driven while performing official city business when requested and authorized by appropriate city supervisory personal unless previously authorized by official Resolution of the City Council of the City of Yuma, Arizona voted upon as a separate and individual Resolution by said City Council at a regular public meeting of said City Council.

Hieb asked that the City Administrator and City Attorney be given the opportunity to review the detailed text prior to the City Council making its decision. **Mendoza** agreed. The amendment acknowledges the need for the Police and Fire Chiefs and the City Administrator have vehicle needs; however, the Police and Fire Chiefs currently drive City-owned vehicles, whereas the City Administrator drives his private vehicle. The amendment is no minor change.

Johnson: If the Fire Chief drives a City vehicle, why is he receiving a car allowance, too? Either Mendoza's statement or the budget information is incorrect or there's a double compensation situation. He asked that the members of the City Council express their opinions; there is no reason the City Council shouldn't vote on the amendment tonight.

Watson: The matter of car allowances has been the subject of considerable discussion by the City Council. Staff has been clearly informed that the City Council feels there are too many car allowances being allowed within the organization. Some employees need a car to do their job and they can be reimbursed or compensated for the use of their personal car or the City can make a car available to them. Neither Beeson's nor Johnson's proffered resolutions are needed because the City Council has made it clear to him this is something he needs to address as the City Administrator and he will implement the Council's desire both now and in the future. The amount of money being discussed is somewhat insignificant. If legal counsel is needed, the City Attorney cannot be consulted because he has a vested interest in having a car allowance; if legal counsel is needed, he will have to seek it from an outside law firm.

McClendon: The issue is that the public is asking City Councilmembers questions about everything in the budget. This is an issue that has come to the forefront and it presents another avenue for cutting costs. Perhaps the City Council could be provided information about how much driving the various

employees are doing so it can better consider whether a car allowance is warranted. She requested more specific information about each department's vehicle usage.

Mendoza: The new wording needs to be digested by the Councilmembers. The City is pinching pennies wherever it can; outside agencies are being given less than in the past. Watson has been given the message loud and clear and anything further – such as these resolutions – would be micro-managing. It is Watson's responsibility to manage employees and the City Council should hold him accountable for following up.

Roll call vote on the amendment: **failed** 2-5; Shoop, Mendoza, McClendon, Hieb and Mayor Nelson voting Nay.

Motion (Beeson/Johnson): To continue Resolution R2009-30 to the Regular Council Meeting of June 17, 2009.

Shoop: What other information might City Councilmembers want before considering this resolution at the next meeting – to avoid further delay? **Johnson:** There is no current accounting system for vehicle usage by those receiving a car allowance; there's no way to give McClendon the information she is requesting. The staff proposed resolution would exclude those who are already receiving car allowances from any the stipulations of the resolution. **Mayor Nelson:** The motion is procedural; the content of the resolution is not under discussion. The information can be made available; is it the City Council's desire to delay in order to get further information?

Roll call vote: **failed** 3-4; Shoop, Hieb, Johnson and Mayor Nelson voting Nay.

Motion (Hieb/Mendoza): To approve Resolution R2009-30 as presented.

Mendoza reiterated his comments that the City Administrator and City employees are aware of the issue. He was not aware that some employees have been asked to use their personal vehicles for City business. He seconded the motion to allow discussion. **Johnson:** The City has in place a system for gathering vehicle use information from those employees who are reimbursed for the use of their cars on City business. This system is not applicable to those receiving a car allowance. The City Administrator has said he had heard the City Council's concern loud and clear; however, the proposed resolution would not apply to any employee who was receiving a car allowance prior to June 30, 2009. The \$45,000 involved is not petty cash, but the proposed resolution would lock the City into these costs indefinitely for those already receiving it with no accountability on their part. Being accountable for tax dollars doesn't include the handing out of lump sums each month to certain individuals, whereas other City employees have to account for their use for reimbursement. The proposed resolution would require the City Administrator to seek the City Council's approval for any car allowances given after July 1, 2009.

Mayor Nelson instructed staff to prepare the estimated costs of administering the car allowance program, the estimated mileage of each individual receiving a car allowance and the estimated costs of administering a vehicle usage reporting program. Administrative costs may be significant.

McClendon agreed, saying this is the information she, too, would like.

Mendoza clarified: Those employees who use City cars are tracked by their purchasing of gasoline with a City purchasing card and their miles driven log. Those who are receiving a car allowance must buy their own gas, pay their own car insurance, and maintain their own car. As such, they do not keep a log.

Johnson: The information should be gathered by listing the function attended or job performed, as well as the number of miles driven and the date. Just estimating usage is not accurate enough. If staff is going to gather information, the individuals should use the existing computer reporting system; it is easy to use and computes the totals automatically. The matter at hand, however, is a resolution that would cast in concrete those car allowances that are already in place. **Mayor Nelson:** Estimates can be accurate. Almost everything the City Council approves is based on estimates.

Beeson: This started out as a discussion about the car allowance for the Presiding Municipal Judge position; Council removed the car allowance from the Presiding Judge position, leaving the car allowance intact for the other Judge position. This discussion led to the City Council looking at all car allowances and asking that this resolution come forward. The purpose of addressing car allowances is to affect the current economic situation. The City adjusted its vehicle policy last year, but it is not reflected in this resolution. The proposed resolution won't affect the City's bottom line right now; in fact, it will hurt it in the future. Car allowances could be handled through the budget process. There's really no point in continuing with the resolution if it isn't going to cut costs.

Mayor Nelson: No resolution sets anything in concrete because any resolution can be rescinded.

Watson: The City pays him, personally, \$500 per month as a car allowance for his use of his personal vehicle for City business; it costs him approximately \$750 per month to operate his vehicle. Under Internal Revenue Service (IRS) rules, 50% of the mileage must be dedicated to the business before the vehicle's use can be written off as a business expense. Otherwise, a car allowance is fully taxed as income. Income levels translate into related benefit costs. The question appears to be whether a given department head legitimately drives enough on City business to warrant his car allowance. The current system does not differentiate between department heads; all department heads are given a car allowance. The City can begin to adjust the policy to a position-specific car allowance program, but employees who use their cars for City business will still need to be compensated. A synopsis of estimated costs can be prepared, but spending \$20,000 to prepare a report on \$44,500 may not be worth it. The City's department heads are working to figure out how to save \$4.5 million. Hank Baer, Director of Utilities, has saved the City \$500,000 by using some Western Area Power Administration electricity versus Arizona Public Service. The prior amendment to staff's resolution would have eliminated his car allowance.

Johnson disagreed with Watson; the amendment would have given the decision for a car allowance to the City Council. **Watson:** The current system is fair; however, he will provide the information requested.

Hieb: A car allowance is part of a total compensation package offered to executive level employees, which is typical of such a position in private industry and government. Giving an individual a car allowance means he can be offered a higher compensation package without the City having to match the total amount in pension benefits. **Johnson** stated that in talking to State and Federal officials, he found that no State department heads are given a car allowance. They either use a State car or submit

their mileage for reimbursement. Federal executives are not given car allowances, though they may be required ride in security vehicles. Neither State nor Federal Judges receive car allowances. If the State and Federal governments can be accountable to the tax payers on a per mile basis, the City's officials can too.

Roll call vote: **failed** 0-7; Shoop, Mendoza, Beeson, McClendon, Hieb, Johnson and Mayor Nelson voting nay.

Kuiper displayed the following title:

Resolution R2009-31

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Pre-Annexation Agreement with the owners of real property generally located south of County 15½E Street, east of Avenue A, west of Avenue 4E and north of County 19th Street

(Annexation Area A2009-08 - Estancia, LLC) (Admin/EcDev)

Motion (Johnson/Mendoza): To approve Resolution R2009-31 as recommended. Roll call vote: **adopted** 7-0.

IV. ADOPTION OF ORDINANCES CONSENT AGENDA

Motion (Johnson/Beeson): To continue Ordinance O2009-29 (Zoning Code text amendment concerning 4-H and FFA project animals) to the Regular City Council Meeting of September 2, 2009, or at an earlier Regular City Council Meeting, at the discretion of the City Administrator. Voice vote: **adopted** 7-0.

Motion (Hieb/Johnson): To adopt Ordinance O2009-39.

Kuiper displayed the following title:

Ordinance O2009-39

An ordinance of the City Council of the City of Yuma, Arizona, annexing to said City portions of Sections 34, 35 and 36 Township 9 South, Range 23 West and portions of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15 and 16, Township 10 south, Range 23 West of the Gila & Salt River Base and Meridian, Yuma County, Arizona, amending Chapter 154 of the Yuma City Code, as amended, pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto

(Annexation Area A2009-08 - Estancia, LLC; property located east to west from Avenue 4E to Avenue A and north to south from the County 15½ Street to County 19th Street alignment)
(Admin/EcDev)

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

V. INTRODUCTION OF ORDINANCES

Kuiper displayed the following titles:

Ordinance O2009-40

An ordinance of the City Council of the City of Yuma, Arizona, repealing Ordinance No. O2001-89 and authorizing and directing that a certain parcel of real property, hereinafter described, be conveyed by easement to the State Board of Directors for Community Colleges of Arizona by the City of Yuma, for the reason that such easement is required for the relocation, construction, operation and maintenance of college sign infrastructure

(To accommodate the relocation of the Arizona Western College sign at 24th Street and Araby Road)
(Eng)

Ordinance O2009-41

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that a certain parcel of real property, hereinafter described, be acquired by the City of Yuma, by gift, easement, purchase or under the power of eminent domain, for the reason that such property is required to improve the public roadway and utility infrastructure and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of said parcels of real property

(Right-of-way acquisition: 1195 S. 12th Avenue; 12th Street widening and reconstruction, between Avenue B and Avenue A.) (Eng)

Ordinance O2009-42

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that a certain parcel of real property, hereinafter described, be acquired by the City of Yuma, by gift, easement, purchase or under the power of eminent domain, for the reason that such property is required to improve the subdivision and public roadway drainage and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of said parcel of real property

(Stormwater basin acquisition; property located in Barkley Ranch Unit 3, at the southeast corner of Avenue D and 28th Street) (Eng)

Ordinance O2009-43

An ordinance of the City Council of the City of Yuma, Arizona, amending Ordinance No. O2007-64 to correct the legal description therein

(Right-of-way acquisition: Avenue 7E; see also O2007-18) (Eng)

VI. Capital Improvement Program and Preliminary Budget Items

Resolution R2009-29: 2010-2019 Ten-Year Capital Improvement Program - Adopt the 2010-2019 Ten-Year Capital Improvement Program, pursuant to the Yuma City Charter, Article XIII, Sections 10 and 11. (Eng)

Motion (McClendon/Mendoza): To adopt Resolution R2009-29, as recommended.

Hieb stated the CIP is a sound document and it serves the City well; however, projects to be funded by the 2% Hospitality Tax should be included for the community to see. **Watson**: The first five projects initially discussed will be included in the final CIP budget.

Kuiper displayed the following title:

Resolution R2009-29

A resolution of the City Council of the City of Yuma, Arizona, adopting the Ten-Year Capital Improvement Program for Fiscal Years 2010-2019

(Eng)

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

Preliminary Budget for Fiscal Year 2009-2010: Adopt the City of Yuma Preliminary Budget for Fiscal Year 2009-2010 in the amount of \$245,690,478, which includes a Capital Improvement Program Budget of \$98,832,673, and an Operating Budget of \$146,857,805. (Finance/Admin)

Motion (Hieb/Johnson): To continue the Preliminary Budget for Fiscal Year 2009-2010 to the Regular City Council Meeting of June 17, 2009. Voice vote: **adopted** 7-0.

VII. PUBLIC HEARING

The sole Public Hearing scheduled was moved forward on the agenda; see page 1.

VIII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Motion (Mendoza/Johnson): To approve the following appointments:

- Appoint Pat Rosas to the Historic District Review Commission to an unexpired term that will expire 06/30/2012
- Re-appoint William J. Moody to the Historic District Review Commission to a term that will expire 06/30/2012
- Reappoint Sandra Griffin and Dave Sellers to the Industrial Development Authority to terms that will expire 06/22/2015
- Re-appoint Jack Dodd to the Yuma Area Benefits Consortium to one term to expire 07/01/2012.

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

Johnson reported on the four-day Arizona Town Hall meetings that focused on transportation issue, which he attended. He also reported on a recent meeting of the Rural Transportation Advocate Council; the Director of the Arizona Department of Transportation outlined the severe economic situation being faced by the department and the State. The future of the State's transportation infrastructure is in jeopardy. He will be attending another Rural Transportation Advocate Council meeting next week.

Mayor Nelson reported the Executive Board of the League of Arizona Cities and Towns has voted to support the Governor's proposed budget.

Concerning O2009-29 (Zoning Code text amendment concerning 4-H and FFA project animals), **Beeson** requested input specifically from past speakers on the issue. The matter has been continued to the fall, leaving plenty of time to gather input. **Watson:** Staff is working to bring all the parties together to reach an agreement; as soon as that can be accomplished, it will take place. The current regulations require anyone raising an animal within the City limits to have a 10-acre tract of land to do so.

IX. SUMMARY OF CURRENT EVENTS

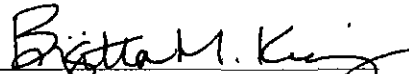
Watson commented on the following items:

- Certain information regarding the City's support of the Governor Jan Brewer's budget proposal was incorrect in an article run yesterday in *The Sun*. *The Sun* will run corrections in tomorrow's edition.
- Today was the final day to file Candidate Nomination Petitions by persons seeking to run for the positions of City Council, Mayor and Presiding Municipal Judge. Five candidates will be running for Mayor, eight for City Council, and one for Presiding Municipal Judge.
- Parks and Recreation will be hosting a special event this coming Saturday at Kennedy Park. The American Ramp Company, a skater-owned and operated, in-line skate manufacturing company located in Joplin, Missouri, will be presenting a demonstration of their equipment.
- The Desert Mesa Elementary School officials and the Parent Teacher Organization president have written to the City expressing their appreciation for the installation of improvements to their school crosswalk at Avenue 7½ E.

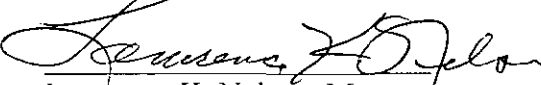
Shoop stated she will be accompanying Fuddle the Firefly, the mascot of the *Fuddle Learns to Cuddle* children's book, on Saturday at the Art Center book promotion. She participated as a judge in the selection of the person who will be Fuddle.

X. ADJOURNMENT/EXECUTIVE SESSION

Motion (Beeson/Mendoza): To adjourn the meeting. Voice vote: **adopted** 7-0. The meeting adjourned at 6:42 p.m. No Executive Session was held.


Brigitta M. Kuiper, City Clerk

APPROVED:


Lawrence K. Nelson, Mayor

Approved at the City Council Meeting of: <u>July 1, 2009</u>
City Clerk: <u>B. Kuiper</u>