

**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 17, 2009**  
**5:30 p.m.**

**CALL TO ORDER**

**Mayor Nelson** called the City Council meeting to order.

**INVOCATION/PLEDGE**

**Brian Stoffregen**, Pastor of Faith Lutheran Church, gave the invocation. **Javier Leon**, Heavy Equipment Operator for Solid Waste, 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  
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**

**Watson** presented employee Javier Leon, Heavy Equipment Operator for Solid Waste, with the City Administrator's Medallion for his above-and-beyond assistance to an elderly person on his route who had fallen and was crying out for help.

**COMMUNICATIONS / FACTUAL RESPONSES**

**Watson** commented on two items:

- The City is not participating in the Arizona Gang and Immigration Intelligence Enforcement Team (GITTEM) Program at this time; however, that does not mean the City is not performing gang-related law enforcement. The City of Yuma's Police Department (YPD) has a Gang Unit, consisting of a core of three officers and one sergeant, assisted by two Border Patrol agents. During the school year, School Resource Officers feed information into the network, covering activity at the local middle and high schools. The City may participate in GITTEM in the future; however, the City has chosen to focus on the local area versus statewide gang activity.
- A recent statement made on a local radio station claimed that a number of City employees were standing around – not working – at a sidewalk replacement site at 10<sup>th</sup> Street and 3<sup>rd</sup> Avenue. In contacting the relevant department, he found that the sidewalk repair crews are made up of six individuals who work at multiple sites on any given day. The concrete is poured and the finisher is left to complete the pour, while the other members of the crew move on to the next site. The project in question was the first site of the day for the crew, so all six men were at the one site. There were other projects in the same area; all of the employees were doing their jobs quickly and efficiently.

**I. CALL TO THE PUBLIC**

**Monica De Leon**, 3602 Cooke Street, expressed concern about a person who was allegedly arrested for possession of illegal narcotics and released shortly thereafter. Complaints have been made to the nearby school, the superintendent and the City Council; she urged others to do the same.

**Michael Toney**, no fixed address, commented on the Growing Smarter legislation, saying it is outmoded in terms of existing conditions.

**Phil Clark**, 4296 W. County 15<sup>th</sup> Street, Somerton read the following prepared statement, asking that it be included in the minutes; **Mayor Nelson** stated okay.

“At the continued city council meeting of May 8, 2009, city administrator, Mark Watson, under the agenda heading Communications and Factual Responses read a prepared statement into the record. While Watson's statement was a communication, it was anything but factual. It would be best described as an artful stretching of words without conveying any facts. In that statement, without offering anything substantive in support of his unilateral subjective declaration, Watson dismissed all points set forth in my letter of May 6, 2009 as being ‘legally incorrect.’ Indeed, if I was incorrect it begs a question - a question that not a single member of the council had the intellectual integrity to ask: If I was legally incorrect, why did the city add an emergency clause to the resolution? If I was legally incorrect, why did the city change from the statute usually made use of in appointing polling place workers to an obscure unused statute from 1955? The difference between the two statutes is significant and documents of record for past elections show that the appropriate statute is 16-531 C not 9-825). The reason Watson was silent on my core points is because the city was (and is) dead wrong. Virtually all of his ‘hit piece’ dwelt on my having provided a copy of the City Charter indicating such appointments were to be made by ordinance; then like giddy school kids he and the city attorney pointed out that the Charter had been changed and now allowed for those appointments to be made by either ordinance or resolution. That Charter change notwithstanding, whether by ordinance or resolution, his argument is cancelled out because neither can become operative until thirty days after passage by the council. An interesting aside: In addition to the 2009 Hospitality Tax election, the thirty day provision was also violated in both the 1993 and 2007 elections as well. Finally, Watson's tone when identifying me as, ‘a former mayor of the city of Yuma and now a county resident’ seems to suggest that I'm guilty of failing to practice ‘full disclosure.’ There seems to be selective consternation with non-city residents expressing opinions on city issues. Selective, because only those in disagreement with the city's position are considered to be out of bounds, while supporters are welcome no matter their residency status. To be clear - I have monitored Yuma city government for more than forty-five years and I have as much, if not more, invested in this community than anyone setting on your coveted, self-opinionated elevated dais, and that is as measured by whatever yardstick you care to use. And for you to advance the notion that the circumstance of my current residence somehow negates that investment is a fallacious notion at best. It's called FREEDOM OF SPEECH, so suck-it-up.”

*(Clerk's Note: City Administrator Watson responded to the above accusations on May 8, 2009 during the continuation of the May 6, 2009 Regular City Council Meeting.)*

**Al Krieger**, 232 Palo Verde Street, objected to the City Council entering into an agreement with the City of San Luis to provide building and fire safety design and plan review services because it is in direct competition with the private sector. When the private sector companies work, the City benefits from the taxes raised; this action would negate those benefits. He urged the City Council to delay the item for further discussion and consider cancelling the agreement altogether. Only if there are no qualified companies available should the City consider providing these services.

## II. MOTION CONSENT AGENDA

**Motion** (Shoop/Mendoza): To adopt the Motion Consent Agenda as recommended, with the exception of items B.4 and B.5, which were removed for separate consideration at the request of Hieb. Voice vote: **approved 7-0.**

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

Special Worksession	April 7, 2009
Special Worksession	April 8, 2009
Regular Council Meeting ( <i>Continued from May 6, 2009</i> )	May 8, 2009
Special Council Meeting	May 27, 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. Authorize staff to execute a one-year contract 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, with the sole responsive, responsible bidder for Integrated Facility Control & Monitoring Systems Installation Services: Millennium 3 Technologies, Tucson, Arizona (RFQ #2009000330) (ITS/City Wide)
3. Authorize execution of a contract for wastewater treatment services with the Winterhaven County Water District. (Utilities/Admin)
4. Removed for separate consideration; see below.
5. Removed for separate consideration; see below.

### Motion Consent Agenda Items Removed for Separate Consideration

- B.4. Approve an Intergovernmental Agreement to provide Building and Fire Safety Design and Plan Review Services to the City of San Luis on an as-needed basis. (CD/Building Safety)

## Discussion

**Hieb:** Is the City in competition with any private entities who could bid on these services? Has staff drawn up a contract in response to a similar request by Somerton? **Watson:** When building activity was growing, San Luis could afford to have a site plan examiner on staff. The City of Yuma has the resources and capacity – people and time – to provide these services for commercial projects. Cities are allowed to enter into intergovernmental agreements for these purposes. Private sector firms are generally reserved for large building projects, such as hospitals – not small businesses in small communities. Providing these services will bring dollars back to Yuma. Approving this item will allow the City to help San Luis avoid extremely high costs associated with this service in the public sector.

**McClendon:** How will fees be determined? **Watson:** The fees will be at a recovery rate; San Luis will be billed an hourly rate plus administrative costs. San Luis will recover the costs through their building permit process, which will then be paid back to the City. This is a common practice; the City has received no input, responses or questions from private businesses regarding this service.

**Johnson** asked how many hours it would take for an examiner to review, say, a typical Circle K building project? **Watson:** That would take about four hours; the primary focus would be on the building location and fire sprinkler systems. **Johnson:** At \$32 per hour, that would result in a \$128 charge. Otherwise, would San Luis have to follow the Request for Qualifications process? **Watson:** San Luis would have to solicit proposals. Until the economy recovers, the City has the ability to perform these services which helps San Luis and brings small revenues back to the City. It is a good deal to help out our neighbors during this time. **Johnson:** During this period when San Luis doesn't have the money to pay their employees, this is a way to save taxpayer dollars.

**Motion** (Shoop/Mendoza): To approve the Intergovernmental Agreement Building and Fire Safety Design and Plan Review services with the City of San Luis, as recommended. Voice vote: **approved** 7-0.

- B.5. Adopt the City of Yuma Preliminary Budget for Fiscal Year 2009-2010 in the amount of \$241,534,562, which includes a Capital Improvement Program Budget of \$94,400,743 and an Operating Budget of \$147,133,819. (Continued from the Regular City Council Meeting of June 3, 2009) (Fin/Admin)

**Beeson** declared a conflict of interest in terms of the Strategic Communications and Visitors Bureau budget allocations because he is an employee of a local radio station. **Mayor Nelson** agreed to separating these items out for separate consideration.

**Motion** (Hieb/McClendon): To approve the Preliminary Budget for Fiscal Year 2009-2010 for the Strategic Communications Division (1012) in the amount of \$772,954 and the outside agency line item for the Convention and Visitors Bureau in the amount of \$650,000 for a total amount of \$1,422,954. Roll call vote: **approved** 6-0-1; Beeson abstained due to a conflict of interest as stated above.

**Motion** (Shoop/McClendon): To approve the Preliminary Budget for Fiscal Year 2009-2010, with the exception of the Strategic Communications Division (1012) budget and the Outside Agency line item for the

Convention and Visitors Bureau, for the total amount of \$240,111,608, which includes a Capital Improvement Program budget of \$94,400,743 and an operating budget of \$145,710,865.

**Hieb:** The Preliminary Budget establishes a cap on City expenditures next year; should revenues be further cut through the actions of the State, adjustments will be made to accommodate the changes. **Mayor Nelson:** Even if income exceeds the totals above, the City cannot exceed these amounts.

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

### **III. RESOLUTION CONSENT AGENDA**

**Kuiper** displayed the following titles:

#### **Resolution R2009-32**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and directing the City Administrator to receive funds and execute the Energy Efficiency Conservation Block Grant (EECBG), and EECBG grant application and related documents, in accordance with the guidelines established under Federal Funding Opportunity Number DE-FOA-0000013 Administered by the United States Department of Energy National Energy Technology Laboratory (Grant Application) (Admin/EcDev)**

#### **Resolution R2009-34**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing the submission of an application and execution of a participant agreement for Arizona Department of Transportation, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Enhancement Grant Funds for expansion of Yuma's Multi-Use Pathway System along the Mode Canal from Gateway Park to the Avenue 2E alignment (Enhancement Grant Funds: Expansion of Yuma's Multi-Use Pathway System) (Admin/YCNHA)**

#### **Resolution R2009-37**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Development Agreement concerning the deferral of Citywide Development fees and Water and Sanitary Sewer Capacity fees for a portion of the Sierra Montana Unit No. 1 Subdivision (Development Fee Deferral: Sierra Montana-8E Development, Inc.) (Eng/Admin)**

#### **Resolution R2009-38**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with the owner of real property located at the northwest corner of Avenue 3 ½ E and County 17th Street (Preannexation Development Agreement: Woodman Family Citrus LP) (Admin/EcDev)**

#### **Resolution R2009-39**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with the owner of real property generally located at the southwest corner of Avenue 3E and County 16th Street (Preannexation Development Agreement: Vowles ASA William Trust dated 6-1-81) (Admin/EcDev)**

**Resolution R2009-40**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with the owner of real property located at 1685 East County 16th Street**

(Preannexation Development Agreement: Robert and Marilyn Dance Trust dated 6-24-97) (Admin/EcDev)

**Resolution R2009-41**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing an Intergovernmental Agreement between the City of Yuma and the State of Arizona, to provide federal funding for the construction of an Interpretive Plaza connecting to the existing Gateway Park and Upper Gateway Park**

(Federal Aid Enhancement Funding) (Admin/YCNHA)

**Resolution R2009-42**

**A resolution of the City Council of the City of Yuma, Arizona, supporting Governor Jan Brewer's State Budget Proposal for Fiscal Year 2009-2010**

(In support of Governor Jan Brewer's Fiscal Year 2009-2010 Budget Proposal) (Admin)

**Resolution R2009-43**

**A resolution of the City Council of the City of Yuma, Arizona, declaring that a certain document entitled *The Pattern Book For Laurel, A Community by Tanimura and Antle (June 2009)*, a public record and ordering the filing of three (3) copies in the Office of the City Clerk**

(Z2009-006) (CD/Planning)

**Motion** (Shoop/Mendoza): To approve the Resolution Consent Agenda as recommended. Roll call vote: **adopted** 7-0.

**IV. ADOPTION OF ORDINANCES CONSENT AGENDA**

**Motion** (Johnson/McClendon): To continue Ordinance O2009-38, Annexation Area A2009-07, to the July 1, 2009 Regular City Council Meeting at the request of the applicant. Voice vote: **adopted** 7-0.

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**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**

(Sign Installation Easement: relocate the Arizona Western College sign at 24<sup>th</sup> 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. 12<sup>th</sup> Avenue; 12<sup>th</sup> 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 28<sup>th</sup> 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) (Eng)

**Motion** (Beeson/Hieb): To adopt the Ordinance Consent Agenda, with the exception of O2009-38 which as continued to the RCM of July 1, 2009. Roll call vote: **adopted** 7-0.

**V. INTRODUCTION OF ORDINANCES – none**

**VI. Public Hearings**

**Development Fee Appeal – Savant Estates Subdivision:** Public Hearing to provide an opportunity for 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. (*Continued from the June 3, 2009 Regular City Council Meeting.*) (Eng)

**Motion** (Johnson/Mendoza): To continue the Development Fee Appeal for Savant Estates Subdivision Public Hearing to the July 15, 2009 Regular City Council Meeting at the request of the applicant. Voice vote: **adopted** 7-0.

**VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING**

**Motion** (Shoop/Mendoza): To approve the following appointments:

- Appoint Tony Brockington (Planning and Zoning Representative) and re-appoint Gary Snyder to the Design Review Commission to terms that will expire 8/17/2013.
- Re-appoint Vinod Mohindra and Brian Ewing to the Water and Sewer Commission to terms that will expire 07/06/2014.

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

**Johnson** informed the City Council that there a joint meeting of the Transportation Framework Policy Advisory Committee and the State Transportation Board will be held in Cottonwood, Arizona; he will be attending.

**Mendoza** invited the public to attend the Yuma Police Department Open House on June 20, 2009 to meet the Police Chief.

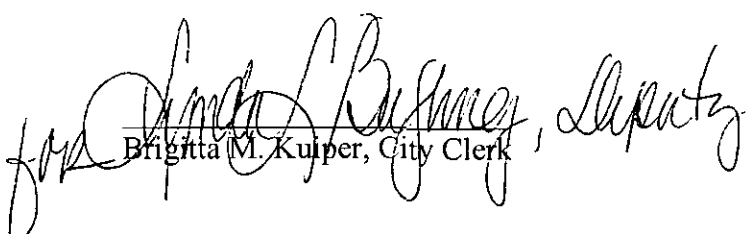
**Motion** (Shoop/Beeson): To move the location of the Special Worksession/Roundtable scheduled for Tuesday, June 30, 2009 at 3:00 p.m. to the Valley Aquatic Center, located at 4381 W. 18<sup>th</sup> Street. Further, to cancel the Regular Worksession scheduled for Tuesday, June 30, 2009 at 5:00 p.m. Voice vote: **adopted** 7-0.

### VIII. SUMMARY OF CURRENT EVENTS

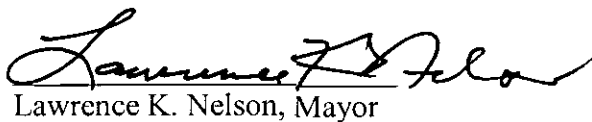
**Watson** stated that the City was notified that the Yuma District Project for U.S. Highway 95/16<sup>th</sup> Street at Interstate 8 bridge project went to bid on June 15, 2009. The City is receiving bids on its portion of the project.

### IX. EXECUTIVE SESSION/ADJOURNMENT

**Motion** (Beeson/Mendoza): To adjourn the meeting. Voice vote: **adopted** 7-0. The meeting adjourned at 6:21 p.m. No Executive Session was held.

  
Briggita M. Kuiper, City Clerk

APPROVED:

  
Lawrence K. Nelson, Mayor

Approved at the City Council Meeting of:  
July 15, 2009  
City Clerk: B. Kuiper