



**City of YUMA**

**CITY OF YUMA  
REGULAR CITY COUNCIL MEETING AGENDA  
COUNCIL CHAMBERS – YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
WEDNESDAY, AUGUST 03, 2011  
5:30 P.M.**

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**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**FINAL CALL** for submission of Speaker Request Forms

**PRESENTATIONS**

**I. CALL TO THE PUBLIC**

Members of the public may address the City Council on matters that are not listed on the City Council agenda. The City Council cannot discuss or take legal action on any matter raised unless it is properly noticed for discussion and legal action. At the conclusion of the Call to the Public, individual members of the City Council may respond to criticism made by those who have addressed the City Council, may ask staff to review a matter or may ask that a matter be placed on a future agenda. All City Council meetings are recorded and videotaped.

**II. MOTION CONSENT AGENDA**

All items listed on the Motion Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a Councilmember so requests. In which event, the item will be removed from the Motion Consent Agenda and the vote or action will be taken separately.

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

- 6. 1. Regular Worksession May 17, 2011
- 17. 2. Regular City Council Meeting May 18, 2011

**B. Approval of Staff Recommendations:**

**Page Item**

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). (City Attorney)

**32. 2. Permanent Extension of Premises: Das Bratwurst Haus, LLC dba Das Bratwurst Haus**

Approve an application for a Permanent Extension of Premises/Patio Liquor License Permit submitted by William Francis Bowles, agent for Das Bratwurst Haus, LLC dba Das Bratwurst Haus, located at 204 S. Madison Avenue, Yuma, Arizona. (EP11-04) (City Administration/City Clerk) (Lynda L. Bushong)

**35. 3. Liquor License: Ninja Sushi Restaurant**

Approve an Interim Permit/New Restaurant, #12, Liquor License application submitted by In Kwan Beak, agent for Ninja Sushi Restaurant Inc. dba Ninja Sushi Restaurant, located at 1400 E. 16th Street, Yuma, Arizona. (LL11-10) (City Administration/City Clerk) (Lynda L. Bushong)

**37. 4. Liquor License: Strummer's Village Tavern**

Approve an Interim Permit/Person Transfer of a Bar, #6, Liquor License application submitted by Debra Ray Drysdale, agent for Drysdale Flats, LLC dba Strummer's Village Tavern, located at 3780 S. 4th Avenue, Yuma, Arizona. (LL11-11) (City Administration/City Clerk) (Lynda L. Bushong)

**39. 5. Bid Award: Avenue D Waterline, 24th Street to 32nd Street**

Award to the lowest responsive/responsible bidder for Avenue D Waterline, 24th Street to 32nd Street at a total cost of \$569,151.25 to: Yuma Valley Contractors, Inc., Yuma, Arizona. (City Engineering Department - Bid # 2011000381) (Paul Brooberg)

**42. 6. Bid Award: New 12" Waterline: Avenue 3E 12th Street - 15th Street**

Authorize staff to award to the lowest responsive/responsible bidder for installation of a water line at Avenue 3E between 12th and 15th Streets at an estimated cost of \$129,638.25 to: Yuma Valley Contractors, Yuma, Arizona. (City Engineering Department - Bid # 2011000394) (Paul Brooberg)

**SUGGESTED MOTION: To approve the MOTION CONSENT AGENDA as recommended:**

M/\_\_\_\_\_ S/\_\_\_\_\_ VV/\_\_\_\_\_

**III. RESOLUTION CONSENT AGENDA**

All items listed on the Resolution Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a City Councilmember so requests or a Speaker Request Form has been submitted. In which event, the item will be removed from the Resolution Consent Agenda and the vote or action will be taken separately.

**45. A. Resolution R2011-21 Collateral Assignment of Development Agreement: Sun Vista R.V. Resort**

Approve a collateral assignment of the Development Agreement with Sun Vista R.V. Resort deferring Sewer Capacity charges. (Utilities/Administration) (Jay Simonton)

**SUGGESTED MOTION: To adopt the RESOLUTION CONSENT AGENDA as recommended:**

M/\_\_\_\_\_ S/\_\_\_\_\_ RV/\_\_\_\_\_

**IV. ADOPTION OF ORDINANCES CONSENT AGENDA**

All items listed on the Ordinances Consent Agenda will be considered and enacted with one motion. There will be no separate discussion of these items unless a City Councilmember so requests or a Speaker Request Form has been submitted. In which event, the item will be removed from the Ordinance Consent Agenda and the vote or action will be taken separately.

There are no ordinance adoptions scheduled at this time.

**SUGGESTED MOTION: To adopt the ORDINANCES CONSENT AGENDA as recommended:**

M/ \_\_\_\_\_ S/ \_\_\_\_\_ RV/ \_\_\_\_\_

**V. INTRODUCTION OF ORDINANCES**

The following ordinance(s) is presented to the City Council for introduction. No vote or action by the City Council is necessary. However, the City Council may, at its option, vote or take action where appropriate. Ordinances given introduction are generally presented to the City Council for adoption at the next Regular City Council meeting.

There are no ordinance introductions scheduled at this time.

**VI. PUBLIC HEARINGS & RELATED ACTIONS**

There are no public hearings scheduled at this time.

**VII. ANNOUNCEMENTS AND SCHEDULING**

Discussion and possible action on the following items:

1. Announcements:
  - City Council report on meetings/events attended – City Council report on issues discussed in meetings/events attended by a City Council representative in their official capacity as the City’s representative during the period of July 21, 2011 through August 3, 2011. City Council questions regarding the update must be limited solely for clarification purposes. If further discussion is warranted, the issue will be added to a future agenda for a detailed briefing.

- City Council report of upcoming meetings.
  - City Council request for agenda items to be placed on future agendas.
2. Scheduling: Motion to schedule future City Council meetings pursuant to Arizona Revised Statutes Section 38-431.02 and the Yuma City Code, Chapter 30.

## **VIII. SUMMARY OF CURRENT EVENTS**

This is the City Administrator's opportunity to give notice to the City Council of current events impacting the City. Comments are intended to be informational only and no discussion, deliberation or decision will occur on this item.

## **IX. EXECUTIVE SESSION**

An Executive Session may be held during this meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. Section 38-431.03 A(1), (3), (4), & (7). An agenda will be posted 24 hours in advance.

## **ADJOURNMENT**

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 the City of Yuma does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of Yuma Human Resources Department, One City Plaza, PO Box 13012, Yuma, Arizona 85366-3012; (928) 373-5125 or TTY (928) 373-5149.

**MINUTES**  
**REGULAR WORKSESSION**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**May 17, 2011**  
**5:00 p.m.**

**CALL TO ORDER**

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

Councilmembers Present: Stuart, Mendoza, McClendon, Brooks, Johnson and Mayor Krieger  
Councilmembers Absent: Beeson  
Staffmembers Present: City Administrator, Greg Wilkinson  
Director of Parks & Recreation, Becky Chavez  
CIP Administrator, Ana Lugo  
Fire Chief, Jack McArthur  
Various department heads or their representatives  
City Attorney, Steve Moore  
City Clerk, Lynda Bushong

**I. REGULAR CITY COUNCIL MEETING AGENDA OF MAY 18, 2011**

**Motion Consent Agenda Item B4: Third Agreement Amendment: Diamond Sports and Entertainment, Inc. dba The Golden Baseball League**

**McClendon** requested clarification of the first two amendments to the agreement. **Chavez** explained that it will be the seventh season the Scorpions baseball team plays at Desert Sun Stadium. The first and second amendments to the agreement were changes in the payment schedule due to the economy. The proposed third amendment is an additional payment schedule change and also includes a provision to allow The Golden Baseball League to charge for parking. **McClendon** noted that in the agreement it indicates that arrangements will be made to control which patrons are subject to this fee and also inquired about what the parking costs would be. **Chavez** stated that these controls were outlined to avoid the same confusion that occurred during the first season when the Scorpions imposed a parking fee and visitors to the Civic Center were also subject to this fee. The team manager has stated that the Scorpions will evaluate the community's response to the \$2 parking fee before making the fee permanent. **McClendon** expressed concern that changes occurring too fast will result in negative feedback from the community.

**Mendoza** agreed with McClendon and added that during the current economic times the additional charge for parking will discourage the community from attending games. If decline in attendance occurs during the first couple of games due to the new charge for parking can the fee be modified? **Chavez** stated that City Council could elect to remove the parking section of the amendment.

**Mendoza:** What is the fee for a baseball game ticket? **Jose Melendez**, General Manager, the Scorpions, informed City Council that ticket prices range from \$5.00 to \$7.00 per person plus the \$2.00 parking fee. The Scorpions want the option to charge for parking and will not move forward if the charge hinders the good will of the league. The team recently changed from the Golden League to

the North American League which requires more travel and need to explore new revenue opportunities. **Mendoza** stated that it's the Scorpions decision of how to operate their business, but City Council wants to ensure they are aware of what the community's response might be. **Melendez** indicated that Council's suggestions and concerns will be taken into consideration.

## **Adoption of Ordinances Consent Agenda Item A: Ordinance O2011-17 Property Acquisition Modification**

**Stuart** had questions about Ordinance O2011-17. **Wilkinson** requested this item be discussed with legal counsel during executive session.

## **II. 2011 CHARTER REVIEW COMMITTEE REPORT**

**Marilyn Young**, Committee Chair, 2011 Charter Review Committee, presented the following recommended Charter changes:

- Article IV. Elections
  - Sec. 4. Time of holding primary and general elections.
    - There shall be a primary and general election held in the City of Yuma in every odd numbered year. The primary and general elections shall be held in ~~September and November, respectively, according to~~ ACCORDANCE WITH state law.

**Young** stated that the change will avoid confusion as to when elections are held.

**Johnson** asked who would determine when elections are held if September and November are removed from this section. **Young** replied that if the State allows elections to occur in March and May or September and November Yuma would comply with that directive.

**Mayor Krieger** stated that Charter cities have the authority to decide when to hold elections; why would the City change and have the State dictate election dates. **Moore** indicated that the initial response from many of the City Attorneys to the change of state law was that all cities, including Charter cities had to comply with the election statute. At least one city has questioned whether or not Charter cities have the authority to have elections different from state law, but since the City of Yuma adopted the four dates under state law the Charter Review Committee is recommending this change.

**Young** continued to present the following:

- Article VI. City Officials
  - Sec. 3. Appointive officers.
    - *City Attorney.* From on and after January 1, 1971, there shall be a city attorney who shall be appointed and his compensation fixed by the city administrator with the approval of the City Council. The city attorney shall serve as the chief legal advisor to the City Council, the city administrator, and all city departments, offices, and agencies. He shall represent the City in all legal proceedings, and shall perform any other duties prescribed by this charter, law, or ordinance. The City Council shall have ~~control~~ FINAL DECISION AUTHORITY of all litigation of the city, and may ~~employ other attorneys to take charge of any litigation or to assist the city attorney therein, and may provide for the payment~~ DELEGATE TO THE CITY ADMINISTRATOR DAY TO DAY GUIDANCE TO THE CITY ATTORNEY AND HIRING OF OTHER ATTORNEYS AS REQUIRED for such additional legal services and all proper service or work done on behalf of the city in

connection with its legal matters. The city attorney shall serve at the pleasure of the city administrator.

**Young** stated that this change clarifies who the City Attorney is responsible to and ensures Council shall have final decision authority of all litigation of the City and may delegate to the City Administrator day to day guidance to the City Attorney in hiring of other attorneys as required. The City Attorney and the City Administrator must work hand in hand and closely with the Council in all matters of litigation.

**Mayor Krieger:** Does this change infer that City Council needs to delegate to the City Administrator day to day guidance, and if action is not taken the City Administrator is not to assume day to day guidance? The recommendation is to have an action item for the delegation of the day to day guidance to the City Attorney. **Young:** This item was difficult to word because of the variables that may need to be considered. The committee's recommendation is that City Council should receive guidance from the City Attorney and have the ultimate authority or final decision. The City Administrator needs to work closely with the City Attorney and ensure City Council is well informed.

**Young** continued:

- Article VI. City Officials
  - Sec. 14. Compensation.
    - ~~From and after January 1, 1998, the Mayor shall receive compensation of \$12,000 a year and each Councilmember shall receive compensation of \$3,600 a year.~~ FROM JANUARY 1, 2014, THE OFFICE OF MAYOR SHALL RECEIVE COMPENSATION BASED UPON 20% OF THE SUPERVISOR SALARY FOR YUMA COUNTY AS STATED IN ARIZONA REVISED STATUES, TITLE 11, CHAPTER 3, ARTICLE 1, §11-419. THE COMPENSATION FOR THE OFFICE OF MAYOR SHALL INCREASE EACH SUBSEQUENT YEAR BY 10% OF THE SUPERVISOR SALARY UNTIL THE COMPENSATION FOR THE OFFICE OF MAYOR IS EQUAL TO THE SUPERVISOR SALARY FOR YUMA COUNTY.

FROM JANUARY 1, 2014, EACH OFFICE OF COUNCILMEMBER SHALL RECEIVE COMPENSATION BASED UPON 10% OF THE SUPERVISOR SALARY FOR YUMA COUNTY AS STATED IN ARIZONA REVISED STATUES, TITLE 11, CHAPTER 3, ARTICLE 1, §11-419. THE COMPENSATION FOR EACH OFFICE OF COUNCILMEMBER SHALL INCREASE EACH SUBSEQUENT YEAR BY 5% OF THE SUPERVISOR SALARY UNTIL THE COMPENSATION FOR EACH OFFICE OF COUNCILMEMBER IS EQUAL TO 50% OF THE SUPERVISOR SALARY FOR YUMA COUNTY.

THE COMPENSATION OF THE OFFICE OF MAYOR AND EACH OFFICE OF COUNCILMEMBER SHALL ADJUST TO THE RELATIVE PERCENTAGE OF THE CURRENT SUPERVISOR SALARY (ARS TITLE 11, CHAPTER 3, ARTICLE 1, §11-419) ON JANUARY 1 OF EACH YEAR.

**Young** added that the committee selected the year 2014 to ensure the change took effect after the current term of elected officials. The increase will be based on a Yuma County Supervisor salary because the City of Yuma has no other elected official that commit the same amount of time and work. Due to the current economy the committee has recommended a gradual increase for Mayor and

Councilmembers. The compensation will increase a specified percentage each year until the stipulated amount is reached. If the supervisor salary increases it will automatically reflect in compensation for Mayor and Councilmembers.

**Mayor Krieger:** It will take eight years to be equitable to a supervisor salary. **Young:** Yes.

**Mayor Krieger** asked about the outcome of the discussion to create a Citizens Committee that could re-visit compensation and put forth recommendations for Council to adopt. **Young** reported that the committee considered the possibility but decided that addressing compensation through a Charter review would be more appropriate.

**Mayor Krieger** stated that the ratio relative to the amount of time required from Mayor and Councilmembers is different. The Mayor probably spends approximately 50%-60% more time tending to city business than the average Councilmember. The Office of Mayor is always expected to attend as many meetings possible and the community understands that Councilmembers might have regular employment. Has there been any discussion relative to what percent ratio the Mayor and/or Councilmembers serve? **Young** replied that a discussion on this issue did not occur, but recalled when she held office as Mayor she put in 50-60 hours per week and the average Councilmember put in 25-30 hours per week. **Mayor Krieger:** Based on a part-time elected position the proposed Councilmember's compensation of 50% of a supervisor salary does not add up. **Young** indicated that the next Charter Review Committee may want to consider changing the Mayor's position to full-time. **Mayor Krieger** agreed and added that Councilmembers should also be categorized as full-time elected official.

**Mayor Krieger** asked if the Mayor and Councilmembers compensation would appear as separate questions if placed on the ballot. These are two separate offices and the concern is that if the public disagrees with the compensation for one office then the other office might automatically be negatively affected. **Young** informed City Council that members of the Charter Review Committee are willing to work with staff in putting together ballot language but Council will need to decide how the questions appear on the ballot.

**Brooks** asked if the committee considered offering a benefits package to Mayor and Council rather than increasing compensation. **Young** replied that because the Mayor and Councilmembers receive retirement benefits that option was not explored. **Mayor Krieger** added that the retirement benefits offered is minimal.

**Stuart** stated that the amount of hours a Councilmember spends conducting city business will vary and depend on the Councilmember's particular interest, committee assignments, and experience. **Young** indicated that during her years of service as Mayor she observed that the majority of Councilmembers did their best while serving on City Council. **Mayor Krieger** mentioned that the State requires supervisors to work 8 hours a week.

**Mendoza** stated that as Deputy Mayor he is aware first-hand of the many hours worked by the Mayor and Councilmembers conducting city business. The elected positions of Mayor and Councilmember are a part-time position with a full-time commitment. Due to the current economic climate, **Mendoza** is hesitant of presenting this compensation increase to the City of Yuma voters. If approved, how will the City compare to other cities once the proposed compensation increase is met? **Young** informed City Council that the committee compared several salaries of other cities of the same size, but the

committee wanted to focus on preparing a measure that was tied to a mechanism that would be approved by the City of Yuma voters.

**Mayor Krieger** asked if the State decides to reduce supervisor's salary would the City be automatically mandated to match the new rate and reduce compensation for Mayor and Councilmembers. **Young** replied that if the mechanism of the supervisor's salary changes, then the Mayor and Councilmembers compensation would need to be adjusted accordingly.

**Margie Dallabetta**, Committee Member, 2011 Charter Review Committee, explained that the committee attempted to produce a document that would be appealing to voters in the current economic times. She outlined:

- Compensation increase will begin in 2014 to ensure all current elected officials are out of office unless re-elected.
- Compensation will increase in yearly ratchet scales of 10% increments until the Mayor's Office is equal to the Supervisor salary and the Councilmember Office is 50% of the Supervisor salary.
- It will take approximately 11 years to reach the full effect of this change.
- New rate possibly will not compensate both Mayor and City Council to match other cities because of all the inequities.

**Mayor Krieger** inquired if the committee had any discussion about how to compel elected officials to actually attend meetings other than Council meeting and be more involved in the community.

**Dallabetta** responded that the committee did not review this area and noted that in her personal observation, City Council has maintained good presence in the community.

**Young** proceeded by presenting the last recommendation:

- Article XII. Contracts and Competitive Bidding
  - Sec. 1. Competitive bidding.
    - *Further regulations.* Further regulations concerning purchasing and the awarding of contracts shall be established by city ordinance. POLICIES AND PROCEDURES OF ACCEPTING OF BIDS BE REVIEWED ANNUALLY AND APPROVED BY CITY COUNCIL IN A PUBLIC FORUM.

**Young** added that this change provides the opportunity for the bidding policies and procedures to be approved in a public forum and receive input from different sources.

**Mayor Krieger** agreed and inquired when the annual review would be due. **Young** stated that City Council could decide on a date if necessary.

**Stuart** stated that the word "may" or "shall" is probably missing from line 2 between the word bids and be (*Policies and procedures of accepting of bids "may" or "shall" be reviewed annually and approved by City Council in a public forum.*). **Young** replied that the committee wanted to be sure that the review occurred annually and adding "shall" would address it. **Mayor Krieger** agreed.

**Young** stated that the committee understands they are a recommending body and that City Council would decide what will be placed on the ballot for the election.

**Johnson** and **Mayor Krieger** thanked all committee members for their work and effort in completing the Charter review. **Young** offered the services of the committee members to assist with the ballot language if needed and thanked Ray Urias and Lynda Bushong for their support.

### III. CAPITAL IMPROVEMENT PROGRAM (CIP)

**Lugo** presented the Draft CIP budget for Fiscal Years 2012-2021.

- The CIP is a plan that serves as a planning tool to match yearly estimated revenues and capital city needs with the estimated revenues over a 10 year period and beyond.
- The following changes were made to the structure of the CIP document:
  - Project numbers were not included
  - Page numbers added
  - Organization
  - Index is at the beginning of the document
  - Proposed funding
  - Carry-over funding
- The projects are organized by year, department, and priority with the upcoming FY 2012 first. Updates to the CIP identified through comments, suggestions, and project progress have been provided. All projects in the CIP are very dynamic and some are undergoing construction design so it has been updated to reflect their current status.
- FY 2012 CIP
  - CIP process
    - November – December
      - Capital Project Status Review
      - Manage Project Initiations
      - Submit the Capital Project
    - January – February
      - Project Financial Analysis
      - Project Impact Analysis
    - March – April
      - Funding Source Projections
      - Fund Allocation
      - Capital Plan Review
    - May – June
      - Planning and Zoning Commission Public Hearings
      - City Council Public Hearings
      - Capital Plan Adoption
  - Funding Sources
    - 2% Tax \$2,151,000
      - Parks and Recreation
      - Yuma Crossing National Heritage Area
    - Community Development Block Grants (CDBG) \$30,000
    - Bond (Carry-Over) \$29,014,500
      - General Government
      - Public Safety
      - Water
      - Wastewater

• City Road Tax	\$2,288,467
• Development Fees	\$5,490,000
– Parks and Recreation	
– Arts & Culture	
– Solid Waste	
– Fire	
– Police	
– General Government	
– Public Works	
– Transportation	
• Developer Deposits	\$91,294
• Grants	\$23,422,000
• Other	\$18,836,067
– Yuma County Flood Control District	
– Arizona Department of Transportation	
– State or Yuma County	
• Sewer Utility Fund	\$1,153,100
• Sewer Capacity Fund	\$2,700,000
• Water Utility Fund	\$1,320,640
• ProRata Funds (Carry-Over)	\$2,810,245

□ For FY 2012 there are a total of 94 projects with one budget authority project which allows the City to fund projects that receive funding after the CIP is adopted.

▪ Departments

□ General Government (includes budget authority project)	\$4 million
□ Information Technology	\$9 million
□ Parks and Recreation	\$4 million
□ Stormwater Control	\$10 million
□ Transportation	\$29 million
□ Wastewater Utility	\$7 million
□ Water Utility	\$11 million
□ Yuma Crossing National Heritage Area	\$6 million
□ Yuma Public Safety (Fire & Police)	-
□ Yuma Fire Department	\$6 million
□ Yuma Police Department	\$2 million

▪ CIP Project Prioritization

- Capital assets that require repair, maintenance, or replacement that if not addressed will result in higher cost in future years.
  - Major projects have been reduced to accommodate changes in intersections for improvement in quality of traffic control.
- Infrastructure improvements needed to support new development or redevelopment.
  - Projects with revenue-generating potential
- Changes in policy or community needs

**Mayor Krieger** asked how City Council is informed of major projects current status, challenges, or redesigns. Is there a process where City Council can provide input? **Wilkinson** replied that with the current process staff does not present project designs to City Council, but the process can be modified to include follow-up presentations when significant changes occur with major projects. The CIP is

usually the approval document but we can provide updates to keep the Council and community informed of changes.

**Lugo** added that the CIP is updated annually and it does not guarantee funding for the later years. FY 2012 has proven to be a challenging year where the priority projects are contingent on funding.

**Johnson** requested clarification of the vehicles itemized to be purchased annually and triennially for the Fire Department under Vehicle Acquisition. **Wilkinson** indicated that this section is intended to illustrate the types of vehicles that may need to be acquired and the funds available. The language in this section needs to be updated to indicate that the intent is not to purchase all the vehicles on the schedule outlined. **Johnson** asked if the intent is to purchase a tank truck for each Fire Station. **McArthur** explained that the reason for this project is to set a side funds to deal with growth when necessary. **Wilkinson** agreed and indicated that the verbiage will be updated.

**Mayor Krieger** inquired if the new requirements for road maintenance, police response, fire response, and other services for the recently annexed Estancia area are factored in the CIP and if the City is being adequately compensated for these additions. **Wilkinson** stated that with the significant cut backs in Highway User Revenue Funds, the economy, and the road tax plus the City's growth there is an approximate short fall of \$9 to \$14 million a year for road maintenance. The Streets Department has begun to slurry seal roads to prevent cracking and extend the life of the road. Through the 10-year CIP the City is looking at an approximate short fall for arterial roadways of \$100 to \$140 million, this does not include the cost for residential roads. This issue will need to be addressed within the next couple of years. Staff is currently evaluating existing improvement districts; these districts are composed of citizens that receive a direct benefit from road maintenance and share the cost. The City has some existing bond funds that are being utilized cautiously to repair the most critical roads. Staff is also preparing the design for a couple of roadways in order to apply for various Transportation Investment Generating Economic Recovery grants. **Mayor Krieger** asked if the level of maintenance in the Estancia area will be relative to the traffic volume in that area. **Wilkinson** indicated that currently staff will only be able to do crack seal patching and slurry sealing in residential areas.

**Johnson** added that in 1993 the citizens of Yuma passed a .5% sales tax [Transaction Privilege Tax]; this tax was approved street and roadway improvements on arterial streets. The completion timeline of completion for these projects was 5-10 years but at this time at least three of the major roadways have not been completed. One of the reasons there is a high cost for road maintenance is that many roads have been inherited from the County and they were not built to the standards of major or arterial roadways. For this reason the City needs to evaluate how to ensure that as roadways are replaced, they are brought up to standards on all aspects and not only have the surface areas replaced. **Mendoza** stated that if the City can only afford to replace surfaces and not an entire structure then the City must do what is needed to avoid having roadways fall apart. **Lugo** noted that most of the pavement replacement should last up to 20 years. After that time the City should be able to fully rebuild the structural section of the roads.

**Mayor Krieger** commended Lugo on the updates and the presentation of the CIP.

#### **IV. REQUEST FOR PUBLIC RECORD PROCESS**

**Bushong** stated that the purpose for this presentation is to provide Council with an overview of the process and the current status of Request for Public Records (RFPR).

- What governs Public Records
  - Arizona Revised Statutes Title 39, Section 121. Inspection of public records
    - Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours.
- Why
  - Increases public access
  - Open public knowledge of what's going on in government
  - Government transparency
  - It is the right thing to do
- RFPR process
  - The RFPR form can be obtained in person or through the City website. Once it's completed the RFPR can be submitted via fax, email, walked-in, or telephone.
  - The Clerk's staff reviews the request and routes it to the appropriate departments for assistance in filling the request.
  - Documents are compiled sometimes solely from the Clerk's Office and many times it takes multiple departments to assist in filling the RFPR.
  - Once the documents are compiled the requestor is contacted.

▪ Annual RFPR Statistics

Year	Total	FR	FR%
2006	458	77	17%
2007	436	67	15%
2008	443	114	26%
2009	380	120	32%
2010	309	85	28%
2011 (5/2011)	201	74	37%
<b>Total</b>	<b>2,227</b>	<b>537</b>	<b>24%</b>

- These statistics illustrate a situation that the Clerk's office has experienced for a number of years which is a magnitude of requests from an individual; these requests are referred to as Frequent Requests (FR).
- Staff has determined it takes an average of 3 hours of City Clerk staff time to complete a typical request however it takes approximately 6 hours of City Clerk staff time to fill a FR, plus the time needed by other departments that help fill these requests. The system can be over burden in several ways, however these issues relate more often to the FR.
  - This frequent requestor has received notification that requests are available, but has not been in to review documents.
  - This frequent requestor has submitted 28 new requests in the last 33 business days.

**Brooks** asked if this frequent requestor is a specific person. **Bushong** explained that for this example the requestor is a specific individual. The Clerk's Office has more than one frequent requestor but for this presentation the reference is to one in particular because of the number of FR submitted. **Johnson** asked if this frequent requestor was a newspaper, other news media, or a private citizen. **Bushong** indicated the Clerk's Office does receive RFPR from the media, but for the purpose of the presentation the reference is about a private citizen. **Bushong** continued with the second example of filling the same request multiple times. The frequent requestor has submitted a request that consists of about 500 requests that were pulled from 2006 archives to present.

**Mayor Krieger** indicated that the documents gathered for this requested appear to be about 15 reams of paper. **Bushong** stated that a ream is 500 sheets and she estimates the example to be closer to 20 reams.

**Mayor Krieger** asked if this request involved departments outside of the Clerk's Office to fulfill. **Bushong** explained that this request consists of requests housed in the Clerk's Office but were previously submitted by the frequent requestor and filled with the assistance from multiple departments. The Clerk's Office frequently goes through the process of filling RFPRs and then this frequent requestor will not take the time to review the documents compiled.

**Brooks** inquired if there is an estimate of how many requests are not being reviewed/picked-up. **Bushong** reported that for this FR the years with the highest percentage of RFPR that resulted in documents not reviewed/picked-up were in 2007 with 18% and 2008 with 23%.

**Johnson** asked if the requestor incurs any cost to review documents. **Bushong** informed Council that state law states that the City can only charge a reasonable amount for copies taken; there is a different law that governs when a request is for commercial purposes at which point the City can charge for staff time. **Johnson** noted that despite the amount of tax dollars used to fill a request when a requestor reviews documents, taxpayers do not receive any reimbursement. **Bushong:** Correct.

**Stuart** inquired if the City has an estimate of the average cost to taxpayers for the FR. **Bushong** stated that the Clerk's Office does not have a dollar figure to provide. Due to the scope of the RFPR in some cases the cost to taxpayers is doubled and is becoming over burdensome. For example, there is a request for project information that dates back 25 years and the requestor wants any and all correspondence of this project. To fill this request all departments have to review their files for all emails, faxes, or any document for the 25 year old project to satisfy the request. The state law mandates that government records be open to the public, however the state law does not adequately protect cities against people who abuse the public record process. The State Ombudsman Office has indicated that they are becoming aware of such situations and are beginning to see how the law may need to be changed.

**Mayor Krieger** commented that it is important for the public to be aware of these circumstances. This might be something that needs to go to the League of Arizona Cities and Towns as a resolution to address habitual frequent requestors, a timeframe for the review of documents, the scope of the request, and the justification for the request. Is there a Clerk's organization that can lobby these types of issues? **Moore** informed City Council that there is an Arizona City Clerks Association that all City Clerks participate in, **Bushong** is a member of this organization; there are avenues for the Attorneys and the Clerks to work together for the League of Arizona Cities and Towns. When lobbying for the Newspaper Association and television stations has occurred at the legislature normally these requests become more expansive and broader. While the City supports transparency in government, the concern is the abuse of the system. One of the more recent cases where a court ruled a request to be over burdensome was in Maricopa County when Sheriff Joe Arpaio requested the Board of Supervisors for approximately 10,000 files. The difficulty the City faces is determining when a request will be considered over burdensome by the courts. If the City goes to court and the courts disagree by statute the City would be responsible to pay attorney fees. **Mayor Krieger** acknowledged that circumstances vary, but it is vital for the State to recognize that some requests are unreasonable and abusive to the system. The State should provide guidance of how to determine when this point is met.

**Wilkinson** explained that because of the amount of FR submitted by this frequent requestor other citizens experience a delay in their requests. It is burdensome on the Clerk's Office. One person is primarily dedicated to handle requests; once their salary plus the salary of other personnel that assist is calculated it provides an estimated debt amount of tax dollars used.

**Mendoza** inquired how much time must the City provide a requestor to come review/pick-up documents. **Bushong** informed City Council that the City's policy is 60 days once the requestor has been notified. During this period the requestor is notified multiple times. **Mayor Krieger:** Can the City change the policy to 10 days? Who sets this policy the Administrator or the Clerk's Office? **Moore** notified City Council that the policy was previously set administratively through the Administrator's Office and the Clerk's Office with consultation of the City Attorney's Office. When the policy was set some of the requests had been pending a minimum of 6 months and the attempt was to find a reasonable timeframe for requestors to review/pick-up documents.

**Mayor Krieger:** How is this problem going to be resolved? **Wilkinson** stated that staff will move forward with creating a resolution for the League of Arizona Cities and Towns. In addition, the current policy will be reviewed to determine if any modification can be made to make the process more efficient and provide any changes via email.

**V. ADDITIONAL ITEMS FOR POSSIBLE DISCUSSION – NO DISCUSSION**

**VI. ADJOURNMENT/EXECUTIVE SESSION**

**Motion** (Stuart/Mendoza): To adjourn the meeting to Executive Session for the agenda items listed and for discussion consultation and/or instruction to legal counsel on Ordinance O2011-17 pursuant to A.R.S. 38-431.03A(3) and (4). Voice vote: **adopted** 6-0. The meeting adjourned to Executive Session at 6:58 p.m.

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Lynda L. Bushong, City Clerk

APPROVED:

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Alan L. Krieger, Mayor

**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA  
CITY COUNCIL CHAMBERS, YUMA CITY HALL  
ONE CITY PLAZA, YUMA, ARIZONA  
**MAY 18, 2011**  
**5:30 p.m.**

**CALL TO ORDER**

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

**INVOCATION/PLEDGE**

**Chuck Stewart**, Pastor of the Calvary Temple of Yuma, gave the invocation. **Councilmember Stuart** led the City Council in the pledge of allegiance.

**ROLL CALL**

Councilmembers Present:	Stuart, Mendoza, Beeson, McClendon, Brooks, Johnson and Mayor Krieger
Councilmembers Absent:	none
Staffmembers Present:	City Administrator, Gregory K. Wilkinson Parks and Recreation Director, Becky Chavez Finance Director, Pat Wicks C.I.P Administrator, Ana Lugo Director of Engineering, Paul E. Brooberg Senior Planner, Noah Cullis Various Department Heads or their representative City Attorney, Steven W. Moore City Clerk, Lynda L. Bushong

**FINAL CALL**

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

**PRESENTATIONS - none**

**I. CALL TO THE PUBLIC**

**Bill Butler** – Yuma Fine Arts Association, 577 9<sup>th</sup> Avenue, introduced dancers from Arizona Classical Ballet. The dancers performed before the City Council to show their appreciation of the City's continued support for the arts in Yuma.

**Phil Clark**, P.O. Box 2824, spoke in regards to the City Clerk's presentation on public records from last night's worksession. He felt the presentation fell short as it focused primarily on frequent requestors. The presentation declared that although ARS § 39-121.01 states records must be provided promptly, frequent requestors delay the prompt release of records that others request. The majority of his requests have taken up to two months to fulfill, which is not prompt. Another area that needs clarification is public records versus public information. After speaking to a City Councilmember regarding public information, he (Clark) filed a Request for Public Records in which the previous City Administrator responded, in a letter, that his request was not for a public record, rather for public information. The maintaining of accurate

knowledge of official activities pertains to both elected and appointed officials. Councilmember Johnson stated that he was required to pay for copies upon a public record request form he submitted; citizens should be charged for their copies but not public officials elected to represent the community. He stated that he would volunteer his time to help review the request for public records process.

## II. MOTION CONSENT AGENDA

**Johnson** asked for clarification in regards to Item B.4: Third Agreement Amendment for Diamond Sports and Entertainment, Inc., dba The Golden Baseball League, and the City of Yuma, for use of the Ray Kroc Baseball Complex. Will the charge for parking be for the Civic Center paved parking lot. **Chavez:** Yes.

**Motion** (Mendoza/Brooks): To approve the Motion Consent Agenda as recommended, with the exception of Item B.4, which was removed for separate consideration by Councilmember Johnson. Voice vote: **approved 7-0.**

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

Regular Worksession	March 1, 2011
Regular Council Meeting	March 2, 2011
Regular Worksession	March 15, 2011

### 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 a contract amendment to extend the contract for one (1) year with Heinfeld, Meech & Co., Tucson, Arizona for Professional Auditing Services at an estimated total cost of \$43,825.00. (RFP #2005000541) (Finance)
3. Approve an Intergovernmental Agreement with Yuma County to provide initial appearances at Municipal Court that occur on weekends and holidays. (Muni Court)
4. Removed for separate consideration; see below.
5. Approve an Infrastructure and Services Report for Annexation Area No. A2011-03, identified as the Barco Annexation, located at 2220 S. Pacific Avenue (Avenue 2E). (DCD/Planning)
6. Accept a donation of \$2,000.00 from the Regional Center for Border Health, Inc. for training efforts of the Yuma Fire Department. (Fire/Admin)

**Motion Consent Agenda Item Pulled for Separate Consideration**

- B.4. Authorize the execution of a third agreement amendment for Diamond Sports and Entertainment, Inc., dba The Golden Baseball League, and the City of Yuma, for use of the Ray Kroc Baseball Complex. (Parks & Rec)

**Motion** (Mendoza/Mayor Krieger): To approve item B.4: Third Agreement Amendment - Diamond Sports and Entertainment, Inc., dba The Golden Baseball League.

Discussion

**McClendon** asked what would happen to the payment schedule if the amended agreement were not approved. **Chavez** stated that the agreement would revert back to the original agreement and the league would not be able to charge for parking nor make payments on their per-game fees. **McClendon** asked if the City Council could approve the schedule of payments, but not the charge for parking. **Moore** stated the City Council could amend the motion to delete the reference changes to Section 6, parking.

**Johnson** objected to charging taxpayers for parking in a parking lot that their tax dollars paid for. He reminded the City Council that when the Padres had Spring Training in Yuma, they allowed civic organizations to charge for parking and also keep the money they raised. It served as a fundraiser for charitable organizations.

**Mendoza** stated that although it is true that tax payer dollars built the parking lot and the baseball stadium, citizens are still charged to attend a baseball game and sit in the bleachers. The Scorpions should be allowed the option to charge for parking if they so choose. He believes the Caballeros de Yuma operated the parking lot in previous years and donated parking fees to local charities. The General Manager of the Scorpions stated at the May 17, 2011 Regular Worksession that if charging for parking does not work out, they would stop charging the fee. **Mayor Krieger** stated that he believes that the Caballeros de Yuma charge for parking at the Midnight at the Oasis Car Show. There are charges frequently assessed above the tax payers' regular burden on various properties throughout the year. Having the Scorpions in Yuma benefits the community through hotel and restaurant sales and other activities in the community.

**Beeson** expressed his concern with the parking fee being construed as a hidden fee. If extra revenue is truly needed, the Scorpions should increase their ticket prices. Therefore, he moved to delete section 6 from the agreement. **Johnson** seconded the motion. **Bushong** reminded the City Council that a motion is currently on the table. **Mayor Krieger** stated the motion would then need to be amended.

**Amended Motion** (Beeson/McClendon): To amend the motion to amend the agreement by deleting Section 6 of part 1 from the agreement.

**Stuart** expressed concern that the City Council may be edging towards micromanagement of another's business by delegating what they can and cannot charge. The league needs to be given the opportunity to decide whether or not they need to charge for parking. The City Council should be concerned with retaining ball clubs that wish to reside in Yuma. **Mayor Krieger** agreed; if people don't agree with the parking fee, they won't attend the games. The message will be clear to the ball club and they will have the opportunity to cease parking fees. **Stuart** asked the City Clerk to restate the amendment. **Bushong** read the amended motion "To amend the motion to amend the agreement by deleting Section 6 of part 1 from the agreement"

and reminded the City Council that once the vote has been taken on the amendment, there will need to be a following vote to approve the entire agreement with, or without, the amendment.

**Beeson** stated he has no desire to micromanage the organization; however, it is a public facility and the City Council is responsible for keeping the balance. Although the City has nothing to do with the ball club, the City Council is still contacted when concession prices are too high. **Mayor Krieger** stated that the City Council does not intervene with concession and ticket prices because of an existing agreement. The parking fee is not a hidden fee as it will be obvious when one pulls into the parking lot.

Roll call vote: **failed** 3-4; Stuart, Mendoza, Brooks and Mayor Krieger voting nay.

Roll call vote (original motion): **approved** 6-1; Johnson voting nay.

### III. RESOLUTION CONSENT AGENDA

**Motion** (Brooks/Mendoza): To approve the Resolution Consent Agenda as recommended.

#### Speakers

**Ken Rosevear**, 180 W. 1<sup>st</sup> Street, corrected the Mayor, the Caballeros de Yuma do not charge for parking at Midnight at the Oasis Car Show. Rosevear asked why there is an emergency clause in Resolution R2011-10: Pledge of General Government Facilities Development Fees. **Wilkinson** explained that in order to continue collecting impact fees related to General Government, the City has to have the money pledged to a specific project by June 1, 2011. Through the normal process, adopted ordinances and resolutions take 30 days to become effective and in this case it the resolution wouldn't take effect until after the deadline. In order to meet the deadline, the emergency clause was added to Resolution R2011-10 to make it immediately effective after its adoption. The provision that allows cities who had incurred debt and set a side development fees to pay for that debt was agreed to both by the home developers and the League of Arizona Cities and Towns. There are four areas where the development fees went away: general government, sanitation, public works, and arts and culture. The City does not have debt in three of the four areas; therefore, the resolution only addresses general government to pay for an existing structure. The development fees are pledged for as long as there is debt; once the debt has been paid, the fees will cease. **Moore** noted that the dollar amount of the fees is subject to the review by the City and approval of the City Council. The resolution allows the City to continue collecting development fees towards general government to pay down debt. **Rosevear** stated the fees could only be charged until the date specified in the new law, then the general government fees will go away. **Wilkinson**: The date the fees go away is the date the debt is paid.

**Rosevear**: What is dollar amount of the bonds? **Wicks**: approximately \$29 million. **Rosevear**: Was the original intent of these projects to be funded by impact fees? **Wilkinson**: yes. **Rosevear** stated that couldn't be the case as some projects were started before the impact fees were in place. Is City Hall a project under the category of General Government Development fees? **Moore**: Yes. **Rosevear** asked how; impact fees weren't in place when City Hall was built. **Mayor Krieger** clarified that the impact fees are charged to the debt that the building incurred.

**Rosevear** stated that the intent of the change in the law is to prevent cities and towns from not having specific projects tied to an impact fee. It is disingenuous to keep charging impact fees for projects that are not tied to an impact; the building of City Hall does not impact anybody's project. When a project is built, the developer pays for the installation of streets, sidewalks, streetlights, sewer lids, fire hydrants, and right turn lanes, which are turned over to the City. **Mayor Krieger** noted that the stipulation was agreed to by the homebuilders and all parties concerned. The financing of City Hall was based on the revenue stream from impact fees. **Rosevear** noted that the City Council has approved the building of a police station, Public Works building, City Hall, and the Art Center all before impact fees existed and now developers are paying for these buildings even though they have no impact on their projects. In the new impact fee law, cities will be required to tie the fee to a project.

**Johnson** pointed out that in the proposed Capital Improvement Program (CIP), it calls for finishing the third floor of City Hall at the cost of \$2,340,000, of which \$1 million is from Bond – Transportation and \$1,340,000 is from Bond – General carryover.

**Mayor Krieger** stated that at the last minute, the ability of cities to honor their debt was negotiated and agreed upon by all parties. The fees are not hidden or these changes wouldn't be proposed today. **Rosevear** asked if he were to start a project today, would he pay the impact fees in place now or the fees solely related to the project. **Wilkinson** stated that until the new fee structure is implemented, a developer would still pay what is currently in place. **Rosevear** suggested, from a business standpoint, that one would wait to start a project until after the new fee structure is set to avoid extra fees.

**Wilkinson** stated that with the revisions brought on by SB1525, it will take a while to revamp the fee structure because of the restrictions and timelines put in place. Although staff was trying to get something in place faster, that may not happen. **Rosevear** pointed out that he had asked for the impact fees to be reviewed two and a half years ago, before the fees would become an issue; however, the only resolution the City reached was to roll the fees from the start of a project the completion of a project. The impact fee matrix is unlike any other community in the state especially for commercial developers, which is one of the highest fees in the state and it hurts economic development

**Mayor Krieger** reiterated that impact fees would continue to be charged from the current fee structure until the new fee structure is implemented. **Rosevear** stated that the freeze of impact fees in the state law does not restrict fees from being lowered; it restricts new fees and the raising of fees. **Rosevear** stated that although the developers agreed to sign an agreement, it didn't happen because the agreement was never created and brought forward. **Mayor Krieger** stated that the opportunity was there but the developers didn't take it.

**Rob Ingold**, 1650 El Paseo Real, 202 S. 1<sup>st</sup> Avenue, stated that impact fees are an issue in the community and since the beginning he has stated that the impact fees need to be structured correctly. During the process of getting impact fees into place the commercial side was left on the back burner while the residential portion had all the focus, which resulted in excessive commercial fees. Recently he converted an industrial building from 10% office space to 50% office space, through a Conditional Use Permit. When the building was built initially, the impact fees were \$47,000; however, the conversion required an additional \$53,000 in fees. The building will be leased to Immigration and Customs Enforcement who will be moving from an old building with old streets to a new building with new streets: what is the impact of their move on the City? There isn't one. Impact fees are necessary for projects that have an on the community but, again, they need to be reasonable. Currently he has two buildings that are vacant today. Potential tenants

immediately walk away when they learn the cost of moving into the buildings. It is no longer affordable to build in the City with the current fee schedule and knowing the building may sit vacant. He owns the land, the infrastructure has been paid for so he can afford to let his buildings remain vacant, but the City can't continue to move backwards or continue to pay for debts through impact fees because the laws are changing. Development has nearly halted; subsequently, the City hasn't been collecting fees as normal. Regarding the completion of the third floor of City Hall, he noted that key talks in the nation today are about downsizing government, not growing it. Are all the current employees necessary? Can the City afford the project? He urged the City Council to reasonably review impact fees and begin attracting development back to Yuma. Developers build approximately \$3 million worth of infrastructure during their process and that money is not credited to them against impact fees. How did the City pay for projects before impact fees were implemented? He asked the City Council to consider what the City's revenue sources are and how the money is expended. Yuma is in a great location, but opportunities will pass it by.

**Johnson** stated the reason the expansion of City Hall was mentioned was to make a point that the City Council is told there is no money for roads yet the expansion of City Hall is being paid through transportation bond money. There are 154 less employees today than there were three years ago, the roads are falling apart and the millions of dollars worth of design for roadways is being thrown away. Why is City Hall being expanded and why is \$800,000 of transportation bond money being used to landscape the 16<sup>th</sup> Street overpass? **Mayor Krieger** cautioned Johnson that the discussion might be leading towards CIP discussions and straying from the current agenda item of impact fees. **Johnson** stated his comments were relevant to Ingold's comments. The City of Yuma has downsized government by 154 employees, but through the CIP are requesting to spend \$1 million worth of transportation funds to expand City Hall while the streets are falling apart. **Ingold** asked what good will it be to expand 3E to four lanes when the money for the bridge has depleted. **Wilkinson** stated the bridge would be done in the next year. **Ingold** asked why the bridge wasn't completed when the rest of the street was. **Wilkinson** stated the timelines with receiving grant money didn't line up; therefore, the City did not have the funding for the bridge.

**Mayor Krieger** stated that the City is currently evaluating the impact fee structure. Ingold suggested paying for only what the City needs, the City needs to pay for City Hall. The City has lost a tremendous amount of Highway Users' Revenue Fund money because the State swept it; therefore the revenue stream that was once there is now gone. Impact fees are not the reason tenants are shying away from renting vacant buildings in Yuma. **Ingold** stated potential tenants made remarks about not having the ability to pay for sewer and water fees. A lot of projects were done over budget and the City and the developers are paying the price today. At the same time the impact fees were being developed, a new mall was being built and most areas along Pacific Avenue are not up to par. The City needs to slow down and come to a negotiable agreement on the impact fee structure. **Mayor Krieger** reminded Ingold that the State has taken the oversight of development fees from the City and is mandating what can and cannot be done. **Ingold** stated the State had to step in because of the problems cities have had in the past. There is no reason why the developers can't get with City staff to make impact fees work for the community.

**Wilkinson** stated the process will be difficult, but the City must move forward. Ingold has some valid points and he hopes some points will be implemented in the process. SB 1525 has thrown a wrench in mix in regards to what he wanted done, but he is confident that in working together staff can bring something to the table regarding lowering the fee structure for the development fees. Retail and industrial development are two areas that will need to be focused on, as they are the two areas that create jobs.

**Bushong** displayed the following titles:

**Resolution R2011-08**

**A resolution of the City Council of the City of Yuma, Arizona, authorizing the execution of an agreement with the State of Arizona for a Transportation Enhancement grant for the construction of the East Wetlands Shared-Use Pathway**  
(East Wetlands Shared-Use Pathway) (Eng)

**Resolution R2011-09**

**A resolution of the City Council of the City of Yuma, Arizona, supporting the goals of the Arizona Solar Challenge**  
(Challenge: Get 5% of owner occupied homes to utilize solar energy by 2015) (Admin)

**Resolution R2011-10**

**A resolution of the City Council of the City of Yuma, Arizona, pledging General Government Facilities Development Fee revenues to debt service repayment related to construction of the City Hall Municipal Complex, and authorizing the taking of all other actions necessary for the consummation of the transactions contemplated by this resolution and declaring this legislative act to be an emergency with the reasons therefore**  
(Finance)

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

**IV. ADOPTION OF ORDINANCES CONSENT AGENDA**

**Motion** (McClendon/Mendoza): To adopt the Ordinance Consent Agenda as recommended.

**Bushong** displayed the following titles:

**Ordinance O2011-17**

**An ordinance of the City Council of the City of Yuma, Arizona, amending Ordinance O2010-58, for the purpose of revising a certain legal description contained therein and 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 parcel of real property**  
(Property Acquisition Modification: traffic signal located at 8<sup>th</sup> Street and 14<sup>th</sup> Avenue) (Eng)

**Ordinance O2011-18**

**An ordinance of the City Council of the City of Yuma, Arizona, fixing compensation and benefits for the office of Municipal Judge from and after January 1, 2012**  
(HR)

**Ordinance O2011-19**

**An ordinance of the City Council of the City of Yuma, Arizona, authorizing a second amendment to the *Yuma Riverfront Development First Phase Land and Improvements Lease* between the City of Yuma and Clark-Lankford, L.L.C for certain parcels of real property, hereinafter described**  
(Admin/YCNHA)

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

## V. INTRODUCTION OF ORDINANCES

**Bushong** displayed the following title:

### **Ordinance O2011-20**

**An ordinance of the City Council of the City of Yuma, Arizona, annexing to said city a portion of Section 34 of Township 8 South, Range 23 West of the Gila and Salt River Base & Meridian, Yuma County, Arizona, and amending Chapter 154 of the Yuma City Code, as amended, designating the zoning of certain property to the Light Industrial District, and amending the zoning map to conform thereto, pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto**

(Annexation Area No. A2011-03, Barco; 2220 S. Pacific Avenue[Avenue 2E]) (DCD/Planning)

## VI. PUBLIC HEARINGS

- A. Draft Fiscal Years 2012-2021 Capital Improvement Program Budget** – Public Hearing on the Draft Fiscal Years 2012-2021 Capital Improvement Program budget, pursuant to the Yuma City Charter, Article XIII, Section 11. (Admin)

**Mayor Krieger** opened the public hearing at 6:43 p.m.

**Lugo** stated the CIP is a planning tool to help forecast and match estimated revenues and major capital needs over a ten-year period, and beyond. She presented the following information:

### Capital Improvement Program

- Changes
  - Project Number – no project numbers
  - Page Numbers – there are now page numbers and an index in front
  - Draft Organization – landscape oriented
  - Proposed Funding
  - Carry-Over Funding
- Project Organization (year/department/priority)
  - FY2012 - front
  - FY2013-2016 - middle
  - FY2017-2021 - back
- Updates
  - Comments
  - Suggestions
  - Project progress

### FY2012 Capital Improvement Program

- Departments
  - General Government
  - Information Technology
  - Parks and Recreation

- Stormwater Control
- Transportation
- Wastewater Utility
- Water Utility
- Yuma Crossing National Heritage Area
- Yuma Public Safety
- Yuma Fire Department
- Yuma Police Department
  - 94 Total Project and 1 Budget Authority Project

Program Development

1. November – December
  - a. Capital Project status review
  - b. Manage, project and initiate project
  - c. Submit Capital Projects.
2. January – February
  - a. Project Final analysis
  - b. Project impact analysis
3. March – April
  - a. Funding source projections
  - b. Fund allocations
  - c. Capital plan review
4. May – June
  - a. Planning & Zoning Commission Public Hearings
  - b. City Council Public Hearing
  - c. C.I.P adoption.

Capital Budget

2007-2017	\$285,708,795
2006-2007	\$301,754,156
2005-2006	\$183,434,918
2004-2005	\$189,386,825
2003-2004	\$142,091,459
2002-2003	\$92,512,103
2001-2002	\$83,674,654
2000-2001	\$36,718,682
1999-2000	\$40,535,766

CIP Comparison

1999-2004	\$115,029,115
2000-2005	\$119,625,737
2001-2006	\$238,749,634
2002-2007	\$238,771,087
2003-2008	\$280,000,000
2004-2009	\$318,631,310
2005-2010	\$457,920,577
2006-2011	\$1,094,570,328
2006-2016	\$1.4 Billion
2008-2017	\$1,030,000

Funding

- 2% Tax
  - Parks & Recreation
  - Yuma Crossing National Heritage Area
- Community Development Block Grant
- Bond
  - General Government
  - Public Safety

- Water
- Wastewater
- City Road Tax – Road projects
- Development Fee
  - Parks & Recreation
  - Arts & Culture
  - Solid Waste
  - Fire
  - Police
  - General Government
  - Public Works
  - Transportation
- Developer Deposits – project specific
- Grant
- Other
  - Yuma County Flood Control District
  - Arizona Department of Transportation
  - State
  - Yuma County
- Sewer Utility Fund
- Sewer Capacity Fund
- Water Utility Fund

Funding Sources and Capital Budget

- Fiscal Year 2012 (Capital Budget)
  - \$89,309,313
    - Proposed Funding
      - \$39,046,037
      - Grant Funding
      - Other Funding (Joint Agency Participation)
- Fiscal Year 2012 CIP Projects
  - General Government(incl. budget authority project) \$4m
    - City Hall Modifications
  - Information Technology \$9m
    - Financial Administration Software
    - 800 MHZ New Radio Site
  - Parks and Recreation \$4m
    - Yuma Valley Area Park
    - Yuma East Regional Park
    - Deyo Complex Restrooms
  - Stormwater Control \$10m
    - 28<sup>th</sup> Street Storm Drainage
  - Transportation \$29m
    - 4<sup>th</sup> Ave. – Catalina Dr. to 1<sup>st</sup> St. paving
    - Avenue 3E – Gila Ridge Rd. to 32<sup>nd</sup> St.
    - 32<sup>nd</sup> Street – Avenue A to Avenue B repaving and minor improvements
    - Avenue A – 8<sup>th</sup> Street to 16<sup>th</sup> Street paving

- 16<sup>th</sup> Street – Arizona Ave. to Pacific Ave. landscaping
- Wastewater Utility \$7m
  - Figueroa Water Pollution Control Facility
    - Digester Improvements
    - Co-Generation Project
    - Power Improvements
    - Corrosion Control Improvements
  - Manhole Rehabilitation Project
- Water Utility \$11m
  - 4<sup>th</sup> Avenue Waterline Crossings – nine crossings; joint project with Transportation repaving project
  - 8<sup>th</sup> Avenue Waterline – 24<sup>th</sup> to 32<sup>nd</sup> Streets
  - Urban Lake
  - 22<sup>nd</sup> Street – Avenue A to 4<sup>th</sup> Avenue Waterline
  - Avenue C Waterline – 16<sup>th</sup> to 18<sup>th</sup> Street
  - Avenue 3E 12” Waterline – 12<sup>th</sup> to 15<sup>th</sup> Street
  - Agua Viva Solar Project
- Yuma Crossing National Heritage Area \$6m
  - Yuma Territorial Prison – Sally Port
  - 4<sup>th</sup> Avenue Gateway
  - Giss Parkway Downtown Entrance
  - Pivot Point Retail Village – Canal Walk
- Yuma Public Safety - no joint Police and Fire projects
- Yuma Fire Department \$6m
  - Fire Station No. 1 Replacement
  - Fire Department Training Facility
- Yuma Police Department \$2m
  - Police Storage Facility
  - Police Substation

Fund Type (year one)

<b>Bond (Carry-Over)</b>	\$29,014,500
<b>City Road Tax</b>	2,288,467
<b>Community Development Block Grants</b>	30,000
<b>Developer Deposits</b>	91,294
<b>Development Fee</b>	5,490,000
<b>Grant</b>	23,422,000
<b>Other</b>	18,836,067
<b>Pro Rata Funds (Carry-Over)</b>	2,810,245
<b>Sewer Capacity Funds</b>	2,700,000
<b>Sewer Utility Fund</b>	1,153,100
<b>Two Percent Tax</b>	2,153,000
<b>Water Utility Fund</b>	1,320,640

**Total** \$89,309,313

### CIP Project Prioritization

- Capital assets that require repair, maintenance, or replacement that, if not addressed, will result in higher costs in future years
- Infrastructure improvements needed to support new development or redevelopment
- Projects with revenue-generating potential
- Changes in policy or community needs

### Discussion

**Johnson** reiterated the City Council does not participate in the development of the CIP nor the budget; it is up to City staff per the Yuma City Charter. With the City being less 154 employees, why is it necessary to expand City Hall? **Wilkinson** stated the intent is to consolidate facilities as there are departments working out of the old Arizona Public Service (APS) facilities that are failing and require a number of improvements – such as the leaks in the roof and a deteriorating air conditioning unit. The plan is to move the employees out of those buildings and demolish them at some point in the future. In doing so, the City will save money operation, maintenance, air conditioning costs, and electric costs as those buildings are not energy efficient. The employees located in those buildings would move over to the Public Works building and Public Works Engineering would move into the third floor of City Hall.

**Johnson** stated that although the transition may save money on utilities it is important to remember the money spent to build the Public Works building. The City is proposing moving Engineering out of a new building, and relocating them in the new section of City Hall, which will be built using Transportation Bond money that could better be used to fix streets. City staff claims there isn't money for roadway projects but transportation money will be used to expand City Hall, which seems logically inconsistent. **Wilkinson:** stated that the Engineering department is currently split, part of the department is currently in City Hall while the other part is in the Public Works building. The project would consolidate Engineering into one building, which will increase communications and management of the CIP and interface Community Development with City Engineering. **Johnson:** Better interface and communications between departments may be necessary, but should not require street money to be used to expand City Hall. **Lugo** pointed out the changes to the funding would come from General Government money.

**Johnson** stated that on another project for the widening of 24<sup>th</sup> Street, there won't be money available until 2022; however, the CIP shows \$800,000 is available to landscape the 16<sup>th</sup> Street interchange with \$800,000 coming from Bond Transportation carryover this year and \$550,000 from the City Road Tax in 2016, is that still true? **Lugo** stated the changes reflect \$800,000 in transportation bond money to be used for the project. **Johnson** noted there are state and federal programs available, such as Transportation Enhancement Grants, for these types of projects. With that, why is \$800,000 of transportation money being used for landscape as opposed to fixing roads? **Mayor Krieger** reminded **Johnson** that the community has been vocal in their desire to see 16<sup>th</sup> Street interchange landscaped. **Broberg** explained that the City Council did ask the ADOT district Engineer whether landscaping was going to be included in the 16<sup>th</sup> Street bridge project. ADOT advised the City Council that landscaping was precluded in the stimulus money; therefore, it would be up to the City to landscape the interchange. The City hopes to partner with ADOT and work with them to obtain grants or share the project costs. City staff already has a good portion of the design for the interchange landscaping completed. It is the intent of staff to apply for up to \$1 million On System Enhancement Grant; however, if the City doesn't get a grant the last resort would be to use the Road Tax monies.

**Johnson** stated that after several millions of dollars were spent on the 32<sup>nd</sup> Street design, right-of-way purchase, and building the bridge. However, the design has been discarded and the plan now is just to replace the pavement. What is the plan to control dust blowing in the area? Will it be landscaped?

**Broberg** stated that there are no plans for landscaping at the time, however a dust suppressant will be used in that area to control blowing dust. **Johnson** stated the City is going to repave the street without replacing the base material keeping in mind the water table in that area is approximately four to six feet deep. **Broberg** corrected Johnson: the water table is eleven feet. A full reconstruction is planned at the intersection of Avenue B and 32<sup>nd</sup> Street; there will be six inches of asphalt over 14 inches of Aggregate Base Coarse (ABC) material. **Johnson** asked if the remaining roadway, besides the intersection, would also have the base material replaced. The design calls for 14 inches of base material and five inches of asphalt. **Broberg**: The intent is to reconstruct the pavement with full depth asphalt. **Mendoza** stated the discussions are getting off tract and asked if the conversation could be redirected to the item on the agenda. **Johnson** stated that the project is a multi-million dollar project that deserves the attention of the public; not speaking about it would be a disservice to the voters.

**Mayor Krieger** closed the Public Hearing at 7:14 p.m.

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**B. Annexation Area No. A2011-002: Premier Storage** – This is a public hearing to consider an annexation of a property generally located at 3265 S. Avenue 3 ¾ E. (A2011-002) (DCD/ Planning)

**Mayor Krieger** opened the public hearing at 7:14 p.m.

**Cullis** presented the following information:

Annexation: Premiere Storage

- Generally located at the southwest corner of Avenue 4E and 32<sup>nd</sup> Street
- Approximately 27.7 acres
- Surrounding land uses:
  - North – Agriculture
  - South – Agriculture
  - East – Commercial
  - West – Agriculture
- Staff has not received public comment for or against the annexation.

Discussion

**Mayor Krieger** mentioned he noticed the posted annexation signs in that area. Does the irrigation district have issues with the annexation? **Cullis**: No, the irrigation district does not have any issues. Staff has done its due diligence and no comments have been received.

**Mayor Krieger** closed the Public Hearing at 7:16 p.m.

## VII. ANNOUNCEMENTS AND SCHEDULING

**Mayor Krieger** reminded the community the funeral for the fallen Border Patrol Agents will be on Friday, traffic interruptions are expected.

**Stuart** outlined the events he attended, and will attend, in May:

- May 1 - the funeral for the late formal council woman Harriet Pinsker
- May 4 - dedication of the Quechan Park
- May 9 - Chamber of Commerce Legislative Affairs Committee meeting
- May 12 Future Farmers of America Installation of Officers and Awards Banquet
- May 13 – City of Yuma Parks and Recreation’s Art Walk
- May 15 - Peace Officers Memorial service at the Quartermaster Depot
- May 16 - was City of Yuma Pre-development meeting – he stated he was impressed by the preparation of staff
- May 17 - Chamber of Commerce’s Board of Directors meeting
- May 20 – Funeral for the fallen Border Patrol Agents

**Johnson** stated that he also attended the grand opening of the Quechan Indian Tribe’s Sunrise Park; and, he will be attending the Rural Transportation Advocate Council meeting in Phoenix and the State Transportation Board Meeting in Flagstaff.

**Stuart** stated that the City Council addressed the issue of advertisement flyers propagating in people’s yards a few years back. Does the City still offer the help for those citizens who do not wish to receive such items? Does the City have an anti-littering ordinance? **Moore** explained that there is an anti-littering ordinance however it may or may not apply to flyers due to first amendment rights (Freedom of Speech). A few years back, the City was dealing primarily with the Yuma Sun as they were the prominent distributor of flyers. If a resident did not want to have the flyers delivered to their property, they would notify the Yuma Sun and the City Attorney’s office. The City Attorney’s office stayed on top of problems that arose. There were other distributors of flyers but at that time the Yuma Sun was the predominate distributor. **Mayor Krieger** suggested the item be placed on a future agenda for further discussion.

## VIII. SUMMARY OF CURRENT EVENTS

**Wilkinson** reported the following:

- The funeral procession for the two fallen Border Patrol Agents will commence at the Yuma Civic Center, travel down Avenue A, up 16<sup>th</sup> Street to 1<sup>st</sup> Avenue. He asked that the citizens avoid those areas.
- The City of Yuma Fire Department was recognized by the Yuma Union High School District as “Co-Op Employer of the Year”
- City of Yuma Fire fighter, Tony Deanda, was recognized by Yuma Regional Medical Center with the Star Award for immediate assistance on January 25, 2011, with a three car accident in front of Yuma Regional Medical Center.

**Mendoza** announced that May 15-21 is National Emergency Medical Services week and May 15-23 is National Public Works week and thanked all the employees for their hard work.

**IX. EXECUTIVE SESSION/ADJOURNMENT**

There being no further business, **Mayor Krieger** adjourned the meeting at 7:27 p.m. No Executive Session was held.

\_\_\_\_\_  
Lynda L. Bushong, City Clerk

APPROVED:

\_\_\_\_\_  
Alan L. Krieger, Mayor

DRAFT



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** August 3, 2011

**DEPARTMENT:** City Administration

**DIVISION:** City Clerk

- Motion
- Resolution
- Ordinance - Introduction
- Ordinance - Adoption
- Public Hearing

**TITLE:**

Permanent Extension of Premises: Das Bratwurst Haus, LLC dba Das Bratwurst Haus

**SUMMARY RECOMMENDATION:**

Approve an application for a Permanent Extension of Premises/Patio Liquor License Permit submitted by William Francis Bowles, agent for Das Bratwurst Haus, LLC dba Das Bratwurst Haus, located at 204 S. Madison Avenue, Yuma, Arizona. (EP11-04)

**REPORT:**

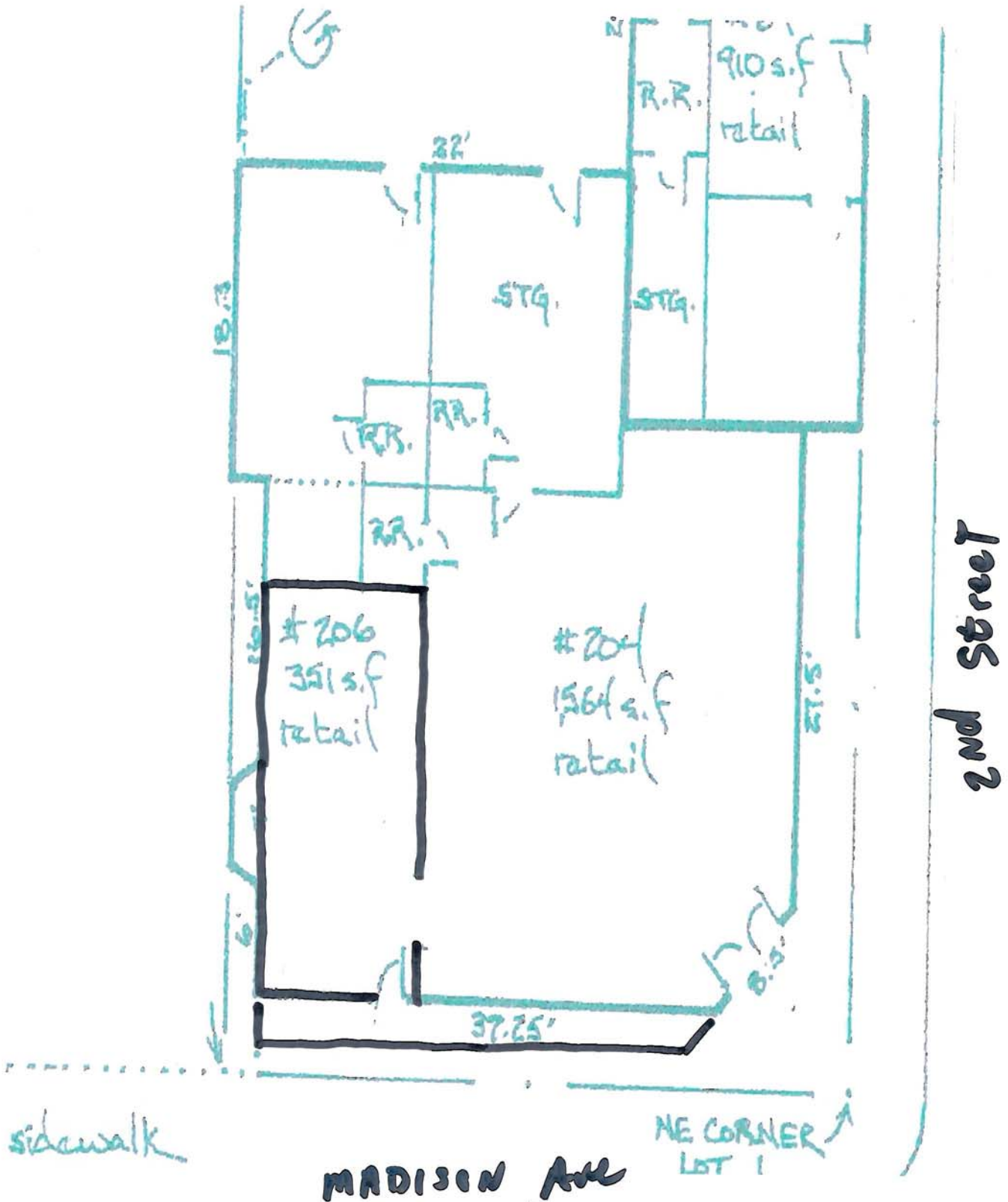
William Francis Bowles, agent for Das Bratwurst Haus, LLC dba Das Bratwurst Haus, has applied for a Permanent Extension of Premises/Patio Liquor License Permit for the restaurant located at 204 S. Madison Avenue.

The permanent extension of premises will include the suite directly to the south, 206 S. Madison Avenue, and the sidewalk along the east property line, adjacent to Madison Avenue, which will be fenced in. The applicant has obtained a City of Yuma encroachment permit for the use of the sidewalk.

The application has been sent to Community Development, Police Department, Fire Prevention and the Business License Department for their review. No objections have been received.

Upon City Council recommendation of approval, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT: Application fee revenue: \$20.00			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Extension of Premises/Patio Liquor License Permit application 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?  <input type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		7/26/2011	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		7/26/2011	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Janet L. Pierson for Lynda L. Bushong		7/15/2011		
WRITTEN/SUBMITTED BY:		DATE:		
Flora L. Hatch		7/13/2011		





City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** August 3, 2011

**DEPARTMENT:** City Administration

**DIVISION:** City Clerk

- Motion
- Resolution
- Ordinance - Introduction
- Ordinance - Adoption
- Public Hearing

**TITLE:**  
Liquor License: Ninja Sushi Restaurant

**SUMMARY RECOMMENDATION:**

Approve an Interim Permit/New Restaurant, #12, Liquor License application submitted by In Kwan Beak, agent for Ninja Sushi Restaurant Inc. dba Ninja Sushi Restaurant, located at 1400 E. 16<sup>th</sup> Street, Yuma, Arizona. (LL11-10)

**REPORT:**

In Kwan Beak, agent for Ninja Sushi Restaurant Inc. dba Ninja Sushi Restaurant, located at 1400 E. 16<sup>th</sup> Street, Yuma, Arizona, has applied for an Interim Permit/New Restaurant, #12, Liquor License.

The subject property has been posted for the required 20-day period and no arguments in favor of or opposed to the issuance of this license have been received.

The application has been reviewed by Community Development, Police Department, Fire Department, and Business Licensing. No objections have been received.

Upon City Council recommendation of approval, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT: Application Fee \$250.00			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Interim Permit/New Restaurant: #12 Liquor License Application 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?  <input type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		7/26/2011	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		7/26/2011	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Janet L. Pierson for Lynda L. Bushong		7/15/2011		
WRITTEN/SUBMITTED BY:		DATE:		
Flora L. Hatch		7/13/2011		



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** August 3, 2011

**DEPARTMENT:** City Administration

**DIVISION:** City Clerk

- Motion
- Resolution
- Ordinance - Introduction
- Ordinance - Adoption
- Public Hearing

**TITLE:**  
Liquor License: Strummer's Village Tavern

**SUMMARY RECOMMENDATION:**  
Approve an Interim Permit/Person Transfer of a Bar, #6, Liquor License application submitted by Debra Ray Drysdale, agent for Drysdale Flats, LLC dba Strummer's Village Tavern, located at 3780 S. 4<sup>th</sup> Avenue, Yuma, Arizona. (LL11-11)

**REPORT:**  
Debra Ray Drysdale, agent for Drysdale Flats, LLC dba Strummer's Village Tavern, located at 3780 S. 4<sup>th</sup> Avenue, Yuma, Arizona, has applied for an Interim Permit/Person Transfer of a Bar, #6, Liquor License. The license is being transferred from Brice Thomas Zeller, agent for WZ Enterprises, LLC dba Closet Lounge, which was located at 3780 S. 4<sup>th</sup> Avenue.

The subject property has been posted for the required 20-day period and no arguments in favor of or opposed to the issuance of this license have been received.

The application has been reviewed by Community Development, Police Department, Fire Department, and Business Licensing. No objections have been received.

Upon City Council recommendation of approval, this application will be forwarded to the Arizona Department of Liquor Licenses and Control for final processing.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT: Application Fee \$250.00			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Interim Permit/Person Transfer: Bar, #6, Liquor License Application 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?  <input type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		7/26/2011	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		7/26/2011	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Janet L. Pierson for Lynda L. Bushong		7/15/2011		
WRITTEN/SUBMITTED BY:		DATE:		
Flora L. Hatch		7/13/2011		



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:** August 3, 2011  
**DEPARTMENT:** Finance  
**DIVISION:** Purchasing

- Motion
- Resolution
- Ordinance - Introduction
- Ordinance - Adoption
- Public Hearing

**TITLE:**  
Bid Award: Avenue D Waterline, 24th Street to 32nd Street

**SUMMARY RECOMMENDATION:**

Award to the lowest responsive/responsible bidder for Avenue D Waterline, 24th Street to 32nd Street at a total cost of \$569,151.25 to:

Yuma Valley Contractors, Inc. Yuma, Arizona

(City Engineering Department - Bid # 2011000381) (Paul Brooberg)

**REPORT:**

The project is located along Avenue D, from 24th Street to 32nd Street, and will consist of installing a new waterline to provide system looping and redundancy. Work will include the installation of a 12" PVC waterline on Avenue D and a 10" PVC waterline is to be installed along 28th Street, from Avenue D to Barkley Ranch Avenue. Project also includes the installation of new fire hydrants, removing and replacing AC pavement and removing and replacing concrete sidewalk.

The bid was distributed for solicitation as follows:

VENDOR BID STATISTICS	TOTAL	LOCAL
Notices Sent Out	31	11
Bid Packages Distributed	27	15
Bids Received	7	4

This recommendation has the concurrence of the Director of Utilities and the C.I.P. Administrator.

FISCAL REQUIREMENTS	CITY FUNDS:	\$569,151.25	BUDGETED:	\$600,000.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: FY 2012 C.I.P.	
	TOTAL:	\$569,151.25		
	FISCAL IMPACT STATEMENT: Funds are included in the FY 2012 Capital Budget for this project under C.I.P. - Waterline Replacement/Improvements.			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?  <input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		7/26/2011	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		7/26/2011	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Pat Wicks		7/18/2011		
WRITTEN/SUBMITTED BY:		DATE:		
Bill Pfannenstiel		07/18/2011		

**BID SUMMARY**  
**BID NO 2011000381**  
**AVENUE D WATERLINE- 24TH STREET TO 32ND STREET (C.I.P. NO. 7.9996, PH 55)**

	<b>Yuma Valley Contractors</b> Yuma, AZ	<b>Cemex Construction Materials South, LLC</b> Yuma, AZ	<b>B T Z Inc. dba Zellers</b> Yuma, AZ	<b>RK SANDERS INC.</b> Phoenix, AZ
Total of Bid Items 1-23	\$517,410.23	\$545,395.00	\$563,940.20	\$647,695.50
10% Contingency	\$51,741.02	\$54,539.50	\$56,394.02	\$64,769.55
<b>TOTAL BID</b>	<b>\$569,151.25</b>	<b>\$599,934.50</b>	<b>\$620,334.22</b>	<b>\$712,465.05</b>
	<b>R</b>			
	<b>Surface Contracting, Inc.</b> Glendale, AZ	<b>Hall Brothers Excavation, LLC</b> Yuma, AZ	<b>P C A Arizona</b> Heber, CA	
Total of Bid Items 1-23	\$664,066.00	\$666,467.58	\$699,382.50	
10% Contingency	\$66,406.60	\$66,646.76	\$69,938.25	
<b>TOTAL BID</b>	<b>\$730,472.60</b>	<b>\$733,114.34</b>	<b>\$769,320.75</b>	

R = Recommended Bidder



FISCAL REQUIREMENTS	CITY FUNDS:	\$129,638.25	BUDGETED:	\$150,000.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP: FY 2012 C.I.P.	
	TOTAL:	\$129,638.25		
	FISCAL IMPACT STATEMENT: Funds are included for project in the adopted FY 2012 Capital Budget.			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?  <input checked="" type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		7/26/2011	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		7/26/2011	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Paul Brooberg		7/18/2011		
WRITTEN/SUBMITTED BY:		DATE:		
Robin Wilson / Bill Pfannenstiel		7/18/2011		

**BID SUMMARY  
 BID NO 2011000394**

**New 12" Waterline: Avenue 3E 12th Street to 15th Street**

	<b>YUMA VALLEY                  CONTRACTORS                  Yuma, AZ</b>	<b>HALL BROTHERS                  EXCAVATION LLC                  Yuma, AZ</b>	<b>B T Z INC                  dba ZELLERS                  Yuma, AZ</b>
Bid Items 1-11	\$117,852.95	\$120,175.83	\$121,686.00
10% Contingency	\$11,785.30	\$12,017.58	\$12,168.60
<b>TOTAL BID</b>	<b>\$129,638.25</b>	<b>\$132,193.41</b>	<b>\$133,854.60</b>
	<b>R</b>		

	<b>CEMEX CONSTRUCTION                  MATERIALS SOUTH LLC                  Yuma, AZ</b>	<b>R K SANDERS INC.                  Phoenix, AZ</b>	<b>PCA ARIZONA dba                  PYRAMID CONST &amp; AGGREGATES                  Herber, CA</b>
Bid Items 1-11	\$127,357.00	\$129,079.00	\$135,347.00
10% Contingency	\$12,735.70	\$12,907.90	\$13,534.70
<b>TOTAL BID</b>	<b>\$140,092.70</b>	<b>\$141,986.90</b>	<b>\$148,881.70</b>

	<b>SURFACE CONTRACTING                  Glendale, AZ</b>
Bid Items 1-11	\$143,636.00
10% Contingency	\$14,363.60
<b>TOTAL BID</b>	<b>\$157,999.60</b>

R=Recommend



City of YUMA

# REQUEST FOR CITY COUNCIL ACTION

<b>MEETING DATE:</b>	August 3, 2011	<input type="checkbox"/> Motion
<b>DEPARTMENT:</b>	Utilities	<input checked="" type="checkbox"/> Resolution
<b>DIVISION:</b>	Administration	<input type="checkbox"/> Ordinance - Introduction
		<input type="checkbox"/> Ordinance - Adoption
		<input type="checkbox"/> Public Hearing
<b>TITLE:</b>		
Collateral Assignment of Development Agreement: Sun Vista R.V. Resort		
<b>SUMMARY RECOMMENDATION:</b>		
Approve a collateral assignment of the Development Agreement with Sun Vista R.V. Resort deferring Sewer Capacity charges.		
<b>REPORT:</b>		
<p>At the June 15, 2011 meeting, City Council approved a development agreement (Development Agreement) deferring sewer capacity charges for the 1230 unit Sun Vista R.V. Resort (Sun Vista). Of \$1,988,902.35 in total charges, the Development Agreement requires that \$1,488,902.35 in sewer capacity charges, taxes, payback amounts, and sanitary sewer interceptor and connection charges be paid to the City prior to Sun Vista's connection to the City's sanitary sewer system. The Development Agreement then permits the deferral of the \$500,000 balance in sewer capacity charges in two payments in the amount of \$250,000 each, with payments to be made on December 31, 2013 and December 31, 2014 including 3% interest from the date of connection.</p> <p>In order to obtain permanent financing of the \$8,458,099.66 project, the lender has requested the City agree to a collateral assignment of the Development Agreement. Collateral assignment in this case means that Sun Vista pledges the Development Agreement to the lender and in the event of a loan default, the lender can step in and obtain the benefits (i.e., deferred payment) in place of the borrower, if the lender chooses to exercise the assignment. The collateral assignment also requires the City to give the lender notice of any default by Sun Vista with regard to the payment schedule or any other Development Agreement term.</p> <p>These provisions are fairly standard in many of the City's development agreements. In this particular case, the need was not contemplated prior to City Council's approval of the Development Agreement with Sun Vista R.V., but are now being requested by both Sun Vista R.V. Resort and the Lender. This proposed Resolution authorizes the City Administrator to execute the <i>City's Agreement and Consent to Assignment of Development Agreement</i> as a separate document.</p>		

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Collateral Assignment of Development Agreement 2. Resolution No. R2011-16 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?  <input type="checkbox"/> Department <input type="checkbox"/> City Clerk's Office			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		7/27/2011	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Steven W. Moore		7/27/2011	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Jay Simonton		7/27/2011		
WRITTEN/SUBMITTED BY:			DATE:	

**RESOLUTION NO. R2011-21**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA,  
ARIZONA, AUTHORIZING A COLLATERAL ASSIGNMENT OF A  
PREVIOUSLY APPROVED DEVELOPMENT AGREEMENT**

WHEREAS, the City Council of the City of Yuma, Arizona approved that certain development agreement with Sun Vista R.V. Resort pursuant to Resolution No. R2011-16 on June 15, 2011 (the "Approved Development Agreement"); and

WHEREAS, the Approved Development Agreement permits deferral of sanitary sewer capacity charges and payment of the \$500,000 deferred amount in two installments at 3% interest; and

WHEREAS, Sun Vista R. V. Resort is in the process of obtaining permanent financing of approximately eight million, four hundred and fifty-eight thousand dollars on their sewer connection project; and

WHEREAS, Sun Vista R.V. Resort has requested City of Yuma agreement and consent to assignment of the Approved Development Agreement, a collateral assignment, to Sun Vista's lender, Lincoln National Life Insurance Company, an Indiana corporation; and

WHEREAS, an assignment to a lender for purposes of financing is typically addressed in the development agreement, but at the time of drafting the Approved Development Agreement, this requirement was not contemplated; and

WHEREAS, the intent of this resolution is to authorize the City Administrator to enter into a separate consent for Sun Vista R.V. Resort to collaterally assign the approved development agreement,

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

SECTION 1: The City Administrator is authorized and directed to execute that certain document titled *City's Agreement and Consent to Assignment of Development Agreement* attached hereto as Exhibit C and incorporated herein by this reference.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
Alan L. Krieger  
Mayor

ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven W. Moore  
City Attorney

## EXHIBIT C

### CITY'S AGREEMENT AND CONSENT TO ASSIGNMENT OF DEVELOPMENT AGREEMENT

The undersigned (“**City**”) as City under the development agreement between Sun Vista R.V. Resort, an Arizona general partnership (“**Borrower**”), and City dated \_\_\_\_\_ (“**Agreement**”) which is one of the documents referred to in that certain *Collateral Assignment of Development Agreement* dated July \_\_, 2011 (“**Assignment**”) made by Borrower to The Lincoln National Life Insurance Company, an Indiana corporation (“**Lender**”), hereby consents to the terms of the Assignment and agrees that, upon receipt of notice from Lender or its successors or assigns that an Event of Default has occurred under the Assignment, it will perform all of its obligations, covenants, conditions and agreements under the Agreement for the benefit of Lender and its successors and assigns.

For purposes of the Assignment, any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given (a) if hand delivered, when delivered; (b) if mailed by United States Certified Mail (postage prepaid, return receipt requested), three Business Days after mailing; (c) if by Federal Express or other reliable overnight courier service, on the next Business Day after delivered to such courier service; or (d) if by telecopier, on the day of transmission so long as a copy is sent on the same day by overnight courier as set forth below:

If to the undersigned:           City Administrator  
  City of Yuma  
  One City Plaza, P.O. Box 13012  
  Yuma, Arizona 85366-3012

If to Lender:                        The Lincoln National Life Insurance Company  
  100 North Greene Street  
  Greensboro, North Carolina 27401  
  Attention: Loan Servicing  
  Loan No. L1164300  
  Facsimile: 336-691-3025

With a copy to:                    Fennemore Craig, P.C.  
  3003 North Central Avenue  
  Suite 2600  
  Phoenix, Arizona 85012-2913  
  Attention:     Don J. Miner  
  Facsimile:     602-916-5573

or such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

The undersigned also agrees that in the event of a breach by Borrower of any of the terms and conditions of the Agreement, the undersigned will give Lender written notice of such breach and the opportunity to remedy or cure such breach within thirty (30) days thereafter except that the undersigned agrees that (a) Lender shall have no liability or obligation to cure any breach under the Agreement, but may do so at Lender's sole option; and (b) no default shall be deemed to have occurred if curing such default cannot by its nature be accomplished in such thirty (30) day period so long as Lender shall have commenced curing the same within such thirty (30) day period and thereafter shall diligently prosecute the same to completion.

It is expressly understood that Lender neither assumes nor has any obligation to City to exercise its rights under the Assignment, and that the option to exercise such right rests in the sole and absolute discretion of Lender. In the event Lender exercises its rights under the Assignment, City agrees that Lender shall have no personal obligations or liabilities under the Agreement or the Assignment and the sole rights and remedies of City as against Lender under the Agreement or under this Consent shall be a suit against Borrower and enforcement of City's lien rights, if any, against the property described in the Agreement. Notwithstanding the preceding sentence, City shall have no obligation to continue construction on behalf of Lender in the event Lender exercises its rights under the Assignment unless Lender assumes the obligation to pay sums due to City for work performed or materials supplied as and when such payments become due under the terms of the Agreement.

City acknowledges that the execution and delivery of this Agreement and Consent to Assignment of Development Agreement ("**Consent**") is a material inducement to Lender to make the New Loan, and, without execution and delivery of this Consent, Lender will not make the New Loan.

**CITY:**

CITY OF YUMA, an Arizona  
municipal corporation

By: \_\_\_\_\_  
Name: Gregory K. Wilkinson  
Title: City Administrator

Attest:

By: \_\_\_\_\_  
Name: Lynda L. Bushong  
Title: City Clerk