

**MINUTES OF PEORIA CITY COUNCIL**  
Regular City Council Meeting Minutes  
COUNCIL CHAMBER  
April 21, 2009

A **Regular Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 7:02 p.m.

Following a moment of silence, Raymond S. Kellis High School Girls Varsity Basketball Team Members: Kayla MacKenzie, Sharayah Thomas, Sam McEntire and Brittany Rosuto led the Pledge of Allegiance.

**Members Present:** Mayor Bob Barrett, Vice Mayor Joan Evans; Councilmembers Ron Aames, Vicki Hunt and Carlo Leone.

**Members Absent:** Councilmembers Cathy Carlat and Dave Pearson.

**Other Municipal Officials Present:** Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; John F. Wenderski, Deputy City Manager; Steve Kemp, City Attorney; Mary Jo Kief, City Clerk; Stephen Bontrager, J.P. de la Montaigne, Andy Granger, Bill Mattingly, Brent Mattingly, Grady Miller, Larry Ratcliff, Wynette Reed, Thomas Solberg, Sandy Teetsel, Jeff Tyne, Glen Van Nimwegen, James Mason and Linda Blas.

**Audience:** Approximately 50 members of the public were present.

**Note:** The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

**Clerk's Note:** Prior to convening the meeting, Mayor Barrett announced that Agenda Item 3C was pulled from the agenda at the request of staff.

**CONSENT AGENDA**

All items listed with a "C" are considered to be routine or have been previously reviewed by the City Council, and will be enacted by 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 General Order of Business, and considered in its normal sequence on the Agenda.

## **CONSENT AGENDA**

Mayor Barrett asked if any Councilmember wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Councilmember Leone, seconded by Vice Mayor Evans to approve the Consent Agenda with the exception of item 3C. Upon vote, the motion carried unanimously 5 to 0.

### **1C Minutes**

March 3, 2009 Special Meeting and Study Session

March 3, 2009 Regular Meeting

### **2C Initial Zoning, Lake Pleasant Parkway and Happy Valley Parkway**

#### ORDINANCE NO 09-11

AN ORDINANCE OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ESTABLISHING INITIAL ZONING ON PROPERTY FROM MARICOPA COUNTY RURAL-43 ZONING DISTRICT TO CITY OF PEORIA SR-43 ZONING DISTRICT; AMENDING THE ZONING MAP AND PROVIDING FOR AN EFFECTIVE DATE.

Concurred with the Planning and Zoning Commission's recommendation and adopted **ORD. 09-11** establishing initial zoning of Suburban Ranch (SR-43) on approximately 2.1 acres recently annexed from Maricopa County zoning district Rural-43, located west of the northwest corner of Lake Pleasant Parkway and Happy Valley Parkway (Z09-03).

### **3C Code Amendment, Chapter 19, Employee Discipline**

#### ORDINANCE NO. 09-12

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 19 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 19-33 PERTAINING TO PERSONNEL BOARD; MEETINGS; POWERS AND DUTIES AND BY REPEALING SECTION 19-34 PERTAINING TO PERSONNEL BOARD; RULES AND REGULATIONS AND BY REPEALING SECTION 19-35 PERTAINING TO PERSONNEL BOARD DUTIES; AND BY REPEALING SECTION 19-36 PERSONNEL BOARD; HEARINGS AND BY REPEALING SECTION 19-37 PERTAINING TO PERSONNEL BOARD; RIGHT OF APPEAL AND BY REPEALING SECTION 19-38

PERTAINING TO PERSONNEL BOARD; METHOD OF APPEAL AND BY REPEALING SECTION 19-39 PERTAINING TO NOTICE AND BY REPEALING SECTION 19-40 PERTAINING TO HEARINGS AND REPEALING SECTION 19-41 PERTAINING TO FINDINGS AND RECOMMENDATIONS AND BY ENACTING SECTION 19-34 PERTAINING TO EMPLOYEE DISCIPLINE; RIGHT OF APPEAL AND ENACTING SECTION 19-35 PERTAINING TO EMPLOYEE DISCIPLINE; METHOD OF APPEAL AND BY ENACTING SECTION 19-36 PERTAINING TO EMPLOYEE DISCIPLINE; NOTICE OF HEARING AND BY ENACTING SECTION 19-37 PERTAINING TO EMPLOYEE DISCIPLINE; PREHEARING AND HEARING PROCESS AND BY ENACTING SECTION 19-38 PERTAINING TO EMPLOYEE DISCIPLINE; PERSONNEL BOARD REVIEW AND BY RESERVING SECTIONS 19-39 THROUGH 19-41 AND BY AMENDING SECTION 19-42 PERTAINING TO HUMAN RESOURCES ; DIRECTOR AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Agenda Item 3C to approve **ORD. 09-12** amending Chapter 19 of the Peoria City Code (1992) pertaining to employee discipline was pulled from the agenda at the request of staff.

**4C Administrative Procedure, Identity Theft**

RESOLUTION NO. 09-44

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, ADOPTING A PROGRAM AND POLICIES GOVERNING THE IDENTIFICATION, DETECTION AND MITIGATION OF IDENTITY THEFT, AND PROVIDING FOR AN EFFECTIVE DATE.

- (a) Adopted **RES. 09-44** establishing a program and policies governing the identification, detection, and mitigation of identity theft;
- (b) Designated the Chief Financial Officer responsible for the program; and
- (c) Provided for an effective date of May 1, 2009.

**5C Intergovernmental Agreement, Arizona Department of Transportation Motor Vehicle Division, Safety Data Mart**

Authorized the City Manager to approve a Data Access/Exchange Agreement and Addendum with the Arizona Department of Transportation Motor Vehicle Division for connectivity to the Arizona Department of Transportation's Safety Data Mart (LCON02809).

**6C Intergovernmental Agreement, Regional Wireless Cooperative, Operations and Maintenance of the Regional Radio Network**

Authorized the City Manager to execute an Intergovernmental Agreement and Governance Document with the Regional Wireless Cooperative (RWC) for operations and maintenance of the regional radio network (LCON02909).

**7C Memorandum of Understanding, United States Marshals Service, Arizona Warrant Apprehension Network and Targeted Enforcement Detail**

Executed a Memorandum of Understanding (MOU) between the City of Peoria Police Department and the United States Marshals Service (USMS) for Arizona Warrant Apprehension Network and Targeted Enforcement Detail (LCON02709).

**8C Development Agreement Amendment, Wal-Mart Stores, Inc.**

Approved a first amendment to the development agreement with Wal-Mart Stores, Inc. (LCON12006A).

**9C Contract, Black and Veatch, Water and Wastewater System Optimization Study**

Approved a contract in the not-to-exceed amount of \$186,043 to Black and Veatch to conduct a Water and Wastewater System Optimization Study (LCON02609).

**10C Contract Amendment, Pulice Construction Inc., Westbrook Village Storm Drain**

- (a) Authorized the merging of Capital Improvement Projects (CIP) UT00096 (91st Avenue 24-inch Waterline from Beardsley Road to Union Hills Drive) and UT00145 (Beardsley Road 24-inch Waterline from Lake Pleasant Road to 87th Avenue) into Capital Improvement Project UT00145 (Beardsley Road and 91st Avenue 24-inch Waterlines);
- (b) Awarded Contract Amendment No. 1 for the Guaranteed Maximum Price (GMP) of \$9,691,697 to Pulice Construction Inc. for construction of the Westbrook Village storm drain and three miles of 24-inch waterline with additional authorization for contingencies in the total amount of \$245,000 (LCON00309A); and

- (c) Authorized a budget transfer within the project in the amount of \$800,000 from the Proposed GO Bond Fund, Land Acquisition Account to the Proposed GO Bond Fund, Storm Drain System Account.

**11C Contract Amendment, Quest Civil Constructors, 101st Avenue and Northern Avenue Lift Station Improvements**

Approved Contract Amendment No. 1 for the Guaranteed Maximum Price (GMP) of \$430,000 to Quest Civil Constructors for construction of the 101st Avenue and Northern Avenue Lift Station improvements, utilizing an existing Job Order Contract (JOC) (ACON25008P5A).

**12C Authorize Expenditure, Diamond Ridge Development Corporation, Rights-of-Way Block Wall Improvements, Various Locations**

Authorized an expenditure in the amount of \$127,548.92 to Diamond Ridge Development Corporation to stucco and paint the block walls at various rights-of-way locations, utilizing existing State Contract No. EPS060026-5-A1.

**13C Maintenance Improvement District No. 1102, Creekside Estates, North of 73rd Avenue and Pinnacle Peak Road**

RESOLUTION NO. 09-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO MAINTAIN LANDSCAPING INCLUDED WITHIN, NEAR AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE CITY OF PEORIA AS DESCRIBED HEREIN; ADOPTING PLANS FOR CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1102, CREEKSIDE ESTATES, AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO AND DECLARING AN EMERGENCY.

RESOLUTION NO. 09-43

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA DECLARING ITS INTENTION TO ORDER THE IMPROVEMENTS OF A CERTAIN AREA WITHIN THE CORPORATE LIMITS OF THE CITY AND CREATING AN IMPROVEMENT DISTRICT KNOWN AS THE CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1102, CREEKSIDE ESTATES; PROVIDING THAT THE COST OF THE MAINTENANCE OF THE LANDSCAPING INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, SHALL BE ASSESSED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS AMENDED; AND DECLARING AN EMERGENCY.

Approved the Petition of Formation and adopted **RES. 09-42** intention and ordering formation of proposed Maintenance Improvement District No. 1102, Creekside Estates, located on north of 73rd Avenue and Pinnacle Peak Road; and adopted **RES. 09-43** ordering work within the proposed Maintenance Improvement District.

**14C Maintenance Improvement District No. 1106, Vistancia Parcel C5, Trilogy Boulevard and Vistancia Boulevard**

RESOLUTION NO. 09-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO MAINTAIN LANDSCAPING INCLUDED WITHIN, NEAR AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE CITY OF PEORIA AS DESCRIBED HEREIN; ADOPTING PLANS FOR CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1106, VISTANCIA PARCEL C5, AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER

ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO AND DECLARING AN EMERGENCY.

RESOLUTION NO. 09-41

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA DECLARING ITS INTENTION TO ORDER THE IMPROVEMENTS OF A CERTAIN AREA WITHIN THE CORPORATE LIMITS OF THE CITY AND CREATING AN IMPROVEMENT DISTRICT KNOWN AS THE CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1106, VISTANCIA PARCEL C5; PROVIDING THAT THE COST OF THE MAINTENANCE OF THE LANDSCAPING INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, SHALL BE ASSESSED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS AMENDED; AND DECLARING AN EMERGENCY.

Approved the Petition of Formation and adopted **RES. 09-40** intention and ordering formation of proposed Maintenance Improvement District No. 1106, Vistancia Parcel C5, located on Trilogy Boulevard and Vistancia Boulevard; and adopted **RES. 09-41** ordering work within the proposed Maintenance Improvement District.

**NEW BUSINESS**

**15R PUBLIC HEARING - Liquor Licenses, Various Locations**

**PUBLIC HEARING: RE:**

- (a) A new Restaurant Liquor License (Series 12) for Crazy Earl's Restaurant, located at 9440 W. Peoria Avenue. Applicant: Andrea L. Ramsey-Salinas, LL#10014392;
- (b) A new Restaurant Liquor License (Series 12) for Bamboo Cafe, located at 8385 W. Deer Valley Road, Suite #114. Applicant: Eric Ka Fai Cheung, LL#10013738; and
- (c) A new Restaurant Liquor License (Series 12) for Peoria Polar, located at 15829 N. 83rd Avenue. Applicant: Randy D. Nations, LL#10009938.

**Staff Report:**

Mary Jo Kief, City Clerk, reported that the properties were posted in accordance with Arizona law, all reviewing departments recommended approval and all fees were paid.

Ms. Kief advised there were no comments received from the public on the liquor license applications for Crazy Earl's Restaurant and Bamboo Café, and eight letters of opposition were received in the City Clerk's Office on Tuesday regarding the liquor license application for Peoria Polar.

**PUBLIC HEARING:**

Mayor Barrett opened the Public hearing and asked if anyone wished to comment on the liquor license applications for the following licensees:

- (a) A new Restaurant Liquor License (Series 12) for Crazy Earl's Restaurant, located at 9440 W. Peoria Avenue. Applicant: Andrea L. Ramsey-Salinas, LL#10014392;
- (b) A new Restaurant Liquor License (Series 12) for Bamboo Cafe, located at 8385 W. Deer Valley Road, Suite #114. Applicant: Eric Ka Fai Cheung, LL#10013738; and
- (c) A new Restaurant Liquor License (Series 12) for Peoria Polar, located at 15829 N. 83rd Avenue. Applicant: Randy D. Nations, LL#10009938.

Having no requests from the public to address this item, Mayor Barrett declared the public hearing closed.

Mayor Barrett suggested that Council vote separately on Agenda Item 15R(c).

**Council Action:** Motion was made by Councilmember Aames, seconded by Vice Mayor Evans to recommend approval to the State Liquor Board for:

- (a) A new Restaurant Liquor License (Series 12) for Crazy Earl's Restaurant, located at 9440 W. Peoria Avenue. Applicant: Andrea L. Ramsey-Salinas, LL#10014392; and
- (b) A new Restaurant Liquor License (Series 12) for Bamboo Cafe, located at 8385 W. Deer Valley Road, Suite #114. Applicant: Eric Ka Fai Cheung, LL#10013738.

Upon vote, the motion to recommend approval for Agenda Items 15R (a) and (b) carried unanimously 5 to 0.

Vice Mayor Evans summarized the liquor license history at Polar Ice and voiced her opinion that it is not a good venue for the consumption of alcohol. Vice Mayor Evans noted the safety concerns raised by citizens regarding the availability of alcohol at the ice rink.

Councilmember Aames reiterated the safety issues of having liquor accessible where patrons are ice-skating and concurred with Vice Mayor Evans that it should not be allowed at this location.

Councilmember Leone spoke in opposition of liquor being allowed in this environment.

Councilmember Hunt expressed her disappointment that the owner of the previous establishment located within the skating rink did not fulfill their promise to more securely segregate the drinking area from the patron area. Councilmember Hunt advised that the applicant plans to expand the drinking area, and she would also oppose this liquor license application.

Motion was made by Vice Mayor Evans, seconded by Councilmember Hunt, to recommend denial to the State Liquor Board for a new Restaurant Liquor License (Series 12) for Peoria Polar, located at 15829 N. 83rd Avenue. Applicant: Randy D. Nations, LL#10009938 based on the following factors set forth in the Arizona Administrative Code:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity; and
2. The compatibility of the proposed business with other activity in close proximity.

Steve Kemp, City Attorney, added that Council has expressed concerns regarding the effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.

Mayor Barrett requested clarification from the Vice Mayor regarding adding this language to her motion.

Vice Mayor Evans concurred with adding the language to her motion.

Upon vote, the motion to recommend denial of Agenda Item 15R(c) Liquor License (Series 12) for Peoria Polar, located at 15829 N. 83rd Avenue carried unanimously 5 to 0.

Mr. Kemp informed the viewing public that under Arizona law, individuals residing within a one-mile radius of the establishment who have concerns have 15 days to file a protest with the State Liquor Board for consideration.

#### **16R Contract Amendment, ELS Construction, Inc., Grand Avenue Underpass**

Kirk Haines, Parks Manager, provided an overview of the request to approve a contract amendment in the amount of \$668,000 to ELS Construction, Inc., for the design and construction of an underpass at Grand Avenue as part of the New River Trail system (ACON29808P2). Mr. Haines provided Council with an update on some of Peoria's trail projects, indicating that the goal is to create trail connectivity.

Motion was made by Councilmember Leone, seconded by Councilmember Hunt to approve a contract amendment in the amount of \$668,000 to ELS Construction, Inc., for the design and construction of an underpass at Grand Avenue as part of the New River Trail system (ACON29808P2).

Upon vote, the motion carried unanimously 5 to 0.

**17R VOID**

**18R Declaration of a Fiscal Emergency**

RESOLUTION NO. 09-45

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA DECLARING AN EMERGENCY DUE TO A FISCAL CRISIS AS SET FORTH IN THE MEMORANDUMS OF UNDERSTANDING BETWEEN THE CITY AND THE UNITED PHOENIX FIRE FIGHTERS, LOCAL 493 AND THE CITY AND THE PEORIA POLICE OFFICER'S ASSOCIATION AND MAKING CERTAIN FINDINGS AND DETERMINATIONS AND DECLARING AN EMERGENCY.

Steve Kemp, City Attorney, provided background regarding the request to declare a fiscal emergency. Mr. Kemp stated that the Memorandums of Understanding with the Police and Fire Unions provide that in the event of a reduction in City revenues, particularly sales tax revenues, the City may declare a fiscal crisis, which will allow the City to reopen the entire agreement in order to look for ways that expenses can be minimized.

Motion was made by Councilmember Aames, seconded by Councilmember Hunt to adopt **RES. 09-45** declaring a fiscal emergency commencing immediately and continuing through June 30, 2010.

Upon vote, the motion carried unanimously 5 to 0.

**Clerk's Note:** Steve Kemp, City Attorney, informed Council that because the resolution passed with a vote of 5-0, the emergency clause of this resolution is not in effect, as six ayes were not received as required. The effective date of the resolution will be 30 days from the signature date.

**CALL TO THE PUBLIC: (NON-AGENDA ITEMS)**

Joe McCord addressed Council requesting that an alternate truck route be used in lieu of the Beardsley Road truck route and that finding an alternate truck route be a priority for Council.

Pat White addressed Council stating she is fighting Valley Fever. Ms. White provided statistics regarding Valley Fever, which is an incurable, fatal disease.

Rick Murphy addressed Council requesting that Council prioritize health and safety issues above luxuries when determining how to use the bond funding.

**Reports from the City Manager:**

1. **Council Calendar**
2. **Reports with Presentation**
  - a. Spring Training 2009.

Chris Calcaterra, Sports Facilities Manager, presented a summary of the 2009 Spring Training Season in Peoria outlining many of the changes that occurred due to economics, new General Manager for the Seattle Mariners, new team ownership with the Padres and additional teams that have come to the Valley for the Spring Training Season in 2009.

3. **Informational**
  - a. General Plan Re-adoption and Ratification Process.

Carl Swenson, City Manager, stated that information is included in the Council packet from the Community Development Director regarding the upcoming General Plan Re-adoption process.

**Reports from City Council:**

Councilmember Leone reported on the various City of Peoria activities he attended.

Councilmember Hunt congratulated Peoria High School students Annabel Esteban and Kevin Brady who won in the Congressional Art Show Contest. Councilmember Hunt reported on the various City of Peoria activities she has attended and plans to attend.

Councilmember Aames reported on the various City of Peoria activities he attended.

Vice Mayor Evans encouraged residents to be vocal about the liquor license for Polar Ice and attend the hearing if they feel strongly one way or the other about the issue.

**Reports from the Mayor:**

Mayor Barrett reminded that April 25th is the Relay for Life charity event for the American Cancer Society courtesy of the Diamond Club.

**ADJOURNMENT**

Being no further business to come before the Council, the meeting was duly adjourned at 8:19 p.m.

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Bob Barrett, Mayor

ATTEST:

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Mary Jo Kief, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the City Council of Peoria, Arizona held on the 21st day of April, 2009. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 16th day of June, 2009.

(Seal)

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Mary Jo Kief, City Clerk