

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
September 4, 2007

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 7:00 p.m.

Following a moment of silence, Councilmember Evans led the Pledge of Allegiance.

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

Members Absent: None

Other Municipal Officials Present: Terrence Ellis, City Manager; Carl Swenson, Deputy City Manager; Susan Thorpe, Deputy City Manager; Steve Kemp, City Attorney; Constance Copeland, Acting City Clerk; Stephen Bontrager, J.P. de la Montaigne, Bill Mattingly, Grady Miller, Dave Moody, Jeff Tyne, Glen Van Nimwegen, Rocky Smith, James Mason and Linda Blas.

Audience: Approximately 30 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.

PRESENTATION:

Councilmember Aames introduced David Boggs, Executive Director of Valley Metro. Mr. Boggs presented an overview of the Regional Public Transit Authority (RPTA) and provided an update on regional public transportation efforts underway that affect the City of Peoria.

Clerk's Note: Valley Metro RPTA PowerPoint presentation is on file in the City Clerk's Office.

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.

Mayor Barrett asked if any Councilmember wished to have an item removed from the Consent Agenda.

Steve Kemp, City Attorney, requested Council withdraw Item 3C from the Consent Agenda and carry the item over to the Council Meeting on September 18, 2007.

Motion was made by Councilmember Leone, seconded by Vice Mayor Hunt, to approve the Consent Agenda as submitted with the exception of Item 3C. Upon vote, the motion carried unanimously.

CONSENT – New Business:

1C DISPOSITION OF ABSENCE:

Approved the absence of Mayor Bob Barrett from the Special City Council Meeting held on August 21, 2007 at 4:00 p.m. and the Regular City Council Meeting held on August 21, 2007 at 7:00 p.m.

2C MINUTES:

Special Meeting 4:00 p.m. – July 10, 2007

3C Code Amendment, Chapter 22, Special Events Permitting and Approval Process

Discussion and possible action to adopt **ORD. 07-28** amending the Peoria City Code (1992 Edition) by repealing Chapter 16 pertaining to Special Events, and enacting Chapter 22.1 pertaining to the permitting and approval process for all special events or activities conducted in the City.

Clerk's Note: This item was heard at the end of the Consent Agenda.

Motion was made by Councilmember Aames, seconded by Councilmember Leone, to carryover until September 18, 2007 the discussion and possible action to adopt **ORD. 07-28** amending the Peoria City Code (1992 Edition) by repealing Chapter 16 pertaining to Special Events, and enacting Chapter 22.1 pertaining to the permitting and approval process for all special events or activities conducted in the City. Upon vote, the motion carried unanimously.

Councilmember Carlat requested the item be presented to Council as a regular agenda item.

4C Veterans Memorial Wall, List of Battles

Approved the list of battles fought in various wars throughout the history of the United States as part of the Veterans Memorial Wall.

5C Budget Adjustments, Fiscal Year 2007

Approved the final year-end budget adjustments for Fiscal Year 2007.

6C Budget Transfer, Greater Phoenix Economic Council (GPEC) Contract

Authorized a transfer in the amount of \$4,961 from the Half-Cent General Fund Contingency Account to the Half-Cent Fund City Participation-Outside Programs Account to cover the increased cost for renewing the contract with the Greater Phoenix Economic Council Contract.

7C Authorize Expenditure, Jomax Water Reclamation Facility (WRF) Phase 2 Expansion

- a. Authorized an expenditure in the amount of \$98,078 for payment of the City's portion of Change Order No. 4 for the Jomax Water Reclamation Facility (WRF) Phase 2 Expansion;
- b. Authorized the use of Reserves from the Water and Wastewater Expansion Funds and;
- c. Authorized a budget transfer from the General Fund Contingency Account in the amount of \$49,039 to the Water Expansion Fund Water Systems Account and in the amount of \$49,039 to the Wastewater Expansion Fund Wastewater Systems Account.

8C Maintenance Improvement District 1080, Trilogy at Vistancia Parcel C11, Trilogy Boulevard and Dixileta Parkway

RESOLUTION NO. 07-128

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. 1080, TRILOGY AT VISTANCIA PARCEL C11, 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. 07-129

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. 1080, TRILOGY AT VISTANCIA PARCEL C11; 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. 07-128** intention and ordering formation of proposed Maintenance Improvement District No. 1080, Trilogy at Vistancia Parcel C11, located on Trilogy Boulevard and Dixileta Parkway; and adopted **RES. 07-129** ordering the work within the proposed Maintenance Improvement District.

9C Deeds and Easements, Various Locations

RESOLUTION NO. 07-130

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING A RESOLUTION FORMALLY ACCEPTING DEEDS AND EASEMENTS FOR PROPERTY RIGHTS CONVEYED TO THE CITY OF PEORIA.

Adopted **RES. 07-130** accepting deeds and easements for various real property interests acquired by the City and previously recorded by the Maricopa County Recorder's Office.

10C Easements, Flood Control District of Maricopa County (FCDMC), New River Channel, Sewer Line and Public Recreation Use

Authorized the City Manager to execute two easements from the Flood Control District of Maricopa County (FCDMC) to formalize an existing sewer line and allow for public recreation uses in a portion of the New River Channel.

11C Easement, Southwest Gas, Municipal Operations Center, Development, 79th Avenue

RESOLUTION NO. 07 -131

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, AUTHORIZING THE GRANTING OF AN EASEMENT TO SOUTHWEST GAS CORPORATION FOR UNDERGROUND GAS LINES AND RELATED FACILITIES.

Adopted **RES. 07-131** authorizing the City Manager to execute an easement to Southwest Gas for gas lines and facilities related to the development of the new Municipal Operations Center at 8850 North 79th Avenue.

12C Public Utility Easement and Dedication of Public Roadway, Butler Water Reclamation Facility, 79th Avenue

RESOLUTION NO. 07 -132

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, AUTHORIZING THE GRANTING OF A PUBLIC UTILITY EASEMENT, AND A ROADWAY DEDICATION ASSOCIATED WITH THE CONSTRUCTION OF THE BUTLER WATER RECLAMATION FACILITY

Adopted **RES. 07-132** authorizing the City Manager to execute a public utility easement and a dedication of public roadway associated with the construction of the Butler Water Reclamation Facility at 8660 North 79th Avenue.

13C Re-Plat, New River Commerce Park, Lot 9, 83rd Avenue and North of Union Hills Drive

Approved the Re-Plat of Lot 9 of New River Commerce Park on the east side of 83rd Avenue and north of Union Hills Drive, subject to stipulations. (Project R070052)

14C Final Plat, Blackstone at Vistancia, Blackstone Drive and Moura Drive

Approved the Final Plat for Blackstone at Vistancia Parcel B7, located at the southeast corner of Blackstone Drive and Moura Drive, subject to stipulations. (Project R070062)

15C Final Plat, Palm Tree Estates, 107th Avenue and Palm Tree Drive

Approved the Final Plat of Palm Tree Estates, located at the northwest corner of 107th Avenue and Palm Tree Drive, subject to stipulations. (R060133)

16C Amended Final Plat, Mack, Arrowhead Phases 1, 2, & 3, 87th Avenue and Thunderbird Road

Approved the Amended Final Plat for Mack, Arrowhead Phases 1, 2 & 3, located on the north side of 87th Avenue and Thunderbird Road, subject to stipulations. (R070005A)

REGULAR AGENDA

NEW BUSINESS

17R Rezone, Sunnyslope Estates, 73rd Avenue and Olive Avenue

ORDINANCE NO. 07-29

AN ORDINANCE OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ZONING PROPERTY FROM INTERMEDIATE COMMERCIAL (C-2) TO SINGLE FAMILY RESIDENTIAL (R1-6) ZONING DISTRICT; AMENDING THE ZONING MAP AND PROVIDING FOR AN EFFECTIVE DATE.

Glen Van Nimwegen, Director of Community Development, presented an overview on a request to rezone 1.78 acres located in Sunnyslope Estates on the northwest corner of 73rd Avenue and Olive Avenue from Intermediate Commercial (C-2) to Single Family Residential (R1-6). The property is currently undeveloped, and the applicant requested the rezoning in order to create a 6-lot subdivision.

Mr. Van Nimwegen explained that the request is consistent with the Peoria General Plan, and the proposal will create an infill project that is consistent with the existing surrounding developments.

In response to questions from Council, Mr. Van Nimwegen reported that the City knows the name of the owner and the civil engineer who developed the site, but has not been provided information regarding the homebuilder.

Vice Mayor Hunt commented that this would be a great use for such a small parcel of land.

Motion was made by Vice Mayor Hunt, seconded by Councilmember Aames, to concur with the Planning and Zoning Commission's recommendation to adopt **ORD. 07-29** to approve the rezoning of 1.78 acres in Sunnyslope Estates from Intermediate Commercial (C-2) to Single Family Residential (R1-6) located on the northwest corner of 73rd Avenue and Olive Avenue to allow a 6-lot subdivision development (Z07-03). Upon vote, the motion carried unanimously.

18R Code Amendment, Chapter 2, Claims Process, Proposition 207

ORDINANCE NO. 07-30

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 2 OF THE PEORIA CITY CODE (1992) BY ENACTING SECTION 2-20 PERTAINING TO CITY COUNCIL; ADMINISTRATIVE HEARING OFFICERS AND PROVIDING THAT SECTIONS 2-45 THROUGH 2-48 SHALL BE RESERVED AND AMENDING CHAPTER 2 OF THE PEORIA CITY CODE(1992) RENUMBERING SECTION 2-51 PERTAINING TO RISK MANAGEMENT; DEFENSE AND INDEMNIFICATIONS TO SECTION 2-49 WITH THE TITLE OF CLAIMS MANAGEMENT; RISK; DEFENSE AND INDEMNIFICATIONS AND AMENDING CHAPTER 2 OF THE PEORIA CITY CODE(1992) BY RENUMBERING SECTION 2-52 PERTAINING TO RISK MANAGEMENT; DEFINITIONS TO SECTION 2-50 WITH THE TITLE OF CLAIMS MANAGEMENT; DEFINITIONS AND AMENDING SAID SECTION AND AMENDING CHAPTER 2 OF THE PEORIA CITY CODE(1992) BY RENUMBERING SECTION 2-53 PERTAINING TO CLAIMS MANAGEMENT, CLAIMS AGAINST THE CITY, DEMAND, TIME LIMIT FOR PRESENTATION OF CLAIMS TO SECTION 2-51 WITH THE TITLE OF CLAIMS MANAGEMENT; DEMAND, TIME LIMIT FOR PRESENTATION OF CLAIM, DIMINUTION IN VALUE CLAIMS AND AMENDING SAID SECTION AND BY ENACTING SECTION 2-52 PERTAINING TO CLAIMS; DIMINUTION IN VALUE OF REAL PROPERTY; ADMINISTRATIVE REVIEW PROCESS; REFERRAL TO ADMINISTRATIVE HEARING OFFICER AND BY ENACTING SECTION 2-53 PERTAINING TO CLAIMS; DIMINUTION IN VALUE OF REAL PROPERTY; PRIVATE CAUSES OF ACTION; LIMITATIONS AND BY ENACTING SECTION 2-54 PERTAINING TO CLAIMS; DIMINUTION IN VALUE; EFFECT OF CLAIM; ESTOPPEL; LIMITATION AND BY AMENDING CHAPTER 2 OF THE PEORIA CITY CODE(1992) IS AMENDED BY RENUMBERING SECTION 2-54 PERTAINING TO CITY ATTORNEY; CLAIMS MANAGEMENT; DUTIES AND RESPONSIBILITIES TO SECTION 2-55 AND AMENDING CHAPTER 2 OF THE PEORIA CITY CODE(1992) BY RENUMBERING SECTION 2-55 PERTAINING TO CLAIMS MANAGEMENT; CLAIMS PAYMENT; PAYMENT OF CLAIM COSTS TO SECTION 2-56 WITH THE TITLE OF CITY ATTORNEY; CLAIMS MANAGEMENT; CLAIMS PAYMENT; PAYMENT OF CLAIM COSTS AND AMENDING

CHAPTER 2 OF THE PEORIA CITY CODE(1992) BY RENUMBERING SECTION 2-56 PERTAINING TO CLAIMS; INSURANCE TO SECTION 2-57 AND AMENDING CHAPTER 2 OF THE PEORIA CITY CODE BY RENUMBERING SECTION 2-57 PERTAINING TO CLAIMS; SELF-INSURANCE; SCOPE; FUND TO SECTION 2-58 AND AMENDING CHAPTER 20 OF THE PEORIA CITY CODE (1992) BY ENACTING SECTION 20-21 PERTAINING TO LAND USE APPEALS; DIMINUTION IN VALUE; DEFINITIONS AND BY ENACTING SECTION 20-22 PERTAINING TO LAND USE APPEALS; DIMINUTION IN VALUE OF REAL PROPERTY; PROCEDURES AND BY ENACTING SECTION 20-23 PERTAINING TO LAND USE APPEALS; DIMINUTION IN VALUE OF REAL PROPERTY; HEARINGS; DECISION BY ENACTING SECTION 20-24 PERTAINING TO LAND USE APPEALS; CITY COUNCIL DECISION; IMPLEMENTATION; AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Steve Kemp, City Attorney, summarized Proposition 207, the Arizona Private Property Rights Act (the "Act") adopted by the qualified electors of the State in 2006. The Act created a new classification for a claim against local government due to an allegation that a government regulation caused the value of real property to be reduced based on the expense of complying with a government regulation or by the limits placed on the use of the property.

Mr. Kemp noted that the Act does not specify any claim procedure or valuation of a claim. Because there is no guidance, the City has difficulty in how a claim for diminution of value would be processed. Mr. Kemp advised that amendments to Chapter 2 of the Peoria City Code were recommended to establish a process for addressing claims pertaining to a reduction in the value of real property that would allow for adjudication without going through the Court system.

In response to questions from Council, Mr. Kemp explained that the process permits a claimant to obtain a hearing before one of the City's administrative hearing officers on the validity of the claim and provides an opportunity for both the property owner and the City to avoid the expense and delay of litigation.

Motion was made by Councilmember Carlat, seconded by Vice Mayor Hunt, to adopt **ORD. 07- 30** amending Chapter 2 of the Peoria City Code (1992 Edition) to provide a claims process to address claims arising under Proposition 207. Upon vote, the motion carried unanimously.

19R Intergovernmental Agreement (IGA), Peoria Unified School District, Frontage Road Development, Olive Avenue to Northern Avenue

Dave Moody, Director of Engineering, reported on a request for approval of an Intergovernmental Agreement with the Peoria Unified School District for right-of-way for the frontage road along the west side of the Loop 101 and the east side of Sun Valley Elementary School.

The Park West development, located at the northwest corner of the Loop 101 and Northern Avenue requires a frontage road along the Loop 101, between Olive Avenue and Northern Avenue, in order to allow the full development of the office and hotel complex to be permitted. Based on the approved site plan, a two-lane frontage road would provide additional access and better circulation.

In response to questions from Council, Mr. Moody explained that a ten-foot high sound wall along the frontage of the Loop 101 was negotiated for the necessary right-of-way. Replacing trees that may have to be removed during construction is also part of the project.

Mr. Moody noted that upon completion, the frontage road and all right-of-way will be deeded to the Arizona Department of Transportation.

Motion was made by Vice Mayor Hunt, seconded by Councilmember Evans to approve an Intergovernmental Agreement with the Peoria Unified School District for the development of a frontage road from Olive Avenue to Northern Avenue (LCON07307). Upon vote, the motion carried unanimously.

CALL TO PUBLIC: (NON-AGENDA ITEMS)

Patty Diliberto addressed Council regarding the dust from the sand and gravel mines in the Agua Fria riverbed. Ms. Diliberto reported this is a serious issue threatening the quality of life in the nearby communities. Ms. Diliberto urged the City to help solve the problem affecting the nearby communities by requesting more monitors to monitor the particulate dust from the operation of the mines.

Peter Hershfield reiterated Ms. Diliberto's comments regarding the dust from the sand and gravel mines and asked for support in requesting additional monitors.

Kenneth Carroll appealed to Council to work with the citizens in an effort to keep the public informed about issues.

Gracie Gibson asked for documentation showing where the City put forth due diligence to inform the citizens regarding moving the Women's Club.

Kathy Montoya-Moore recited from an undated copy from the files at the Historical Society stating that the Peoria Women's Club donated the clubhouse to the City in 1960 as a permanent monument to its founding members and the City. Ms. Montoya-Moore asked if

special permission had to be granted to move the building from a permanent monument and requested that if a document granting permission existed, it be made available to the citizens of Peoria.

Eva Osuna commented that the public had previously been presented with a plan that would create a walking district in Old Town Peoria utilizing a revitalized Johnnie Osuna Park as the gateway to residential and retail development. Ms. Osuna noted that several existing buildings in Old Town have a similar architectural design. Ms. Osuna questioned what had become of the plan that Old Town Peoria would follow the same architectural design as the Peoria High School building. Ms. Osuna asked why the City would want to move the Women's Club and remove generations of family histories. In addition, Ms. Osuna stated it is imperative that the Old Peoria Revitalization Plan be redesigned with a vision reflecting the members of the community.

Karen McQuiston asked if the public knew the Women's Club would lose its historic title if it were moved from its current location.

Betty Jo Huckaby Cochran shared her memories of the Women's Club and pleaded that the building not be moved.

Dr. Becky Osuna reflected on the passion the present group of citizens has for the revitalization of Peoria. Dr. Osuna requested Council pay attention to what is being asked by the citizens, facilitate to make it happen and work together for the best of the community.

Ramiro Espinoza spoke on the past, present and future history of the City and asked that Council listen to the citizens and the Historical Society.

Reports from the City Manager:

At the request of the City Manager, J. P. de la Montaigne, Director of Community Services, provided a status report on events scheduled to celebrate the opening of the Rio Vista Recreation Center and presented photographs showcasing the facility. Mr. de la Montaigne noted that the theme for the grand opening celebration is "Come in and Play" and will be open to the public from 9:00 a.m. until 2:30 p.m. on Saturday, September 8, 2007. On Sunday, September 9, 2007, the Rio Vista Recreation Center will be open to individuals who have purchased passes.

Reports from City Council:

Councilmember Leone commented that the Rio Vista Recreation Center is a great facility and urged the public to attend the grand opening on September 8th. Councilmember Leone reported that during the previous week he had attended a 3-day conference in Scottsdale sponsored by the Arizona League of Cities and Towns. He noted that the conference included workshops and that many State legislators were in attendance.

Councilmember Leone reported that his granddaughter who has served in the army for 8 years had just returned from Iraq.

Councilmember Carlat thanked the Peoria Police Department for the compassion and support offered to her family during a recent family tragedy.

Councilmember Aames commented that he had also attended the conference hosted by the Arizona League of Cities and Towns. Councilmember Aames noted they learned some good things about historical preservation and information related to revitalizing cities.

Councilmember Evans reported that she attended the Arizona League of Cities and Towns Annual Conference and noted that Councilmember Leone had received an award at the conference for eight years of service to the City of Peoria and the State of Arizona. Councilmember Evans announced that she had recently obtained a membership at the Rio Vista Recreation Center. Councilmember Evans commented on the programs and activities offered to families with young children, and noted it is an amazing facility for the citizens of Peoria.

Vice Mayor Hunt announced that the Pioneer Memorial commissioned to honor the first citizens of Peoria would be unveiled on Saturday, September 22, 2007. Vice Mayor Hunt reported that the artist and a Councilmember from Peoria, Illinois would be present for the dedication. She encouraged the public to show their support by attending the festivities that would include a pancake breakfast in Osuna Park.

Reports from the Mayor:

Mayor Barrett reported that he had attended the conference offered by the Arizona League of Cities and Towns and extended his congratulations to Councilmember Leone for the recognition he received for his service to the City. Mayor Barrett commented that he had also joined the Rio Vista Recreation Center. Mayor Barrett announced that a Special Study Session regarding the Women's Club would be held in October.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 8:21 p.m.

Bob Barrett, Mayor

ATTEST:

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 4th day of September, 2007. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 20th day of November, 2007.

(Seal)

Mary Jo Kief, City Clerk