

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
CITY COUNCIL CHAMBER
May 1, 2012

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 silent reflection, Councilmember Evans led the Pledge of Allegiance.

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

Members Absent: None

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Susan Thorpe, Deputy City Manager; Steve Kemp, City Attorney; Wanda Nelson, City Clerk; Andy Granger, Engineering Director; Katie Gregory, Interim Management and Budget Director; Stacy Irvine, Interim Fire Chief; Chris Jacques, Planning and Community Development Director; Bo Larsen, Public Information Manager; Claudia Luján, Interim Human Resources Director; Bill Mattingly, Public Works and Utilities Director; Brent Mattingly, Finance Director; Roy Minter, Police Chief; Jeff Tyne, Interim Community Services Director; Scott Whyte, Economic Development Services Director; Geriminsky; Chief Deputy City Clerk.

Audience: Approximately 10 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.

Mayor Barrett announced that Agenda Items 15R, 16R and 17R have been pulled at the request of staff. No action was taken on these items.

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. Having no requests from Council, motion was made by Vice Mayor Aames, seconded by Councilmember Leone, to approve the Consent Agenda. Upon vote, the motion carried unanimously 7 to 0.

CONSENT – New Business:

1C Minutes

Approved the following minutes:

April 17, 2012 Special Meeting and Study Session
April 17, 2012 Regular Meeting

2C Grant Application, Staffing for Adequate Fire and Emergency Response, Firefighters

Approved a Staffing for Adequate Fire and Emergency Response (SAFER) grant application in the amount of \$930,000 in order to hire six firefighters to control incidents at Lake Pleasant and the surrounding area.

3C Grant Application, Peoria Police Department, U.S. Department of Justice, COPS Hiring Program Grant

Approved the COPS Hiring Program Grant application to obtain partial funding to hire three police officers.

4C Intergovernmental Agreement, City of Glendale, Cooperative Law Enforcement and Security Services, Arizona Sports and Tourism Authority Stadium

Authorized an Intergovernmental Agreement with the City of Glendale to provide law enforcement and security services at the Arizona Sports and Tourism Authority Stadium.

5C Amendment, Intergovernmental Agreement, Maricopa County Superior Court, Jury Services

Approved an amendment renewing the Intergovernmental Agreement for Jury Services with Superior Court of Arizona in Maricopa County for an additional one-year term from July 1, 2011 through June 30, 2012, with the terms and conditions of the Intergovernmental Agreement entered on March 6, 2006.

6C Amendment, Lease Agreement, Arizona Broadway Theatre

Approved the amended lease with KLOS Enterprises, LLC (Arizona Broadway Theatre) for the approximately four acres of real property owned by the City located at 7701 West Paradise Lane and to authorize the City Manager to execute the lease documents.

7C Amendment, Principles of Sound Financial Management, Tax-Advantaged Bonds

RESOLUTION NO. 2012 -51

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING GUIDELINES AND POLICIES GOVERNING THE OVERALL FISCAL PLANNING AND MANAGEMENT OF THE CITY'S FINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

Approved **RES. 2012-51** adopting the amended Principles of Sound Financial Management and incorporating new procedures for tax-advantaged bonds.

8C Council Policy, Community Services Recreation Pricing and Fees

Adopted the City Council Policy, Community Services Recreation Pricing and Fees.

9C Budget Transfer, Peoria Unified School District, Summer Sports Programs

Approved a budget transfer to supplement the Sports Programs budget and cover payment to Peoria Unified School District (PUSD) for utility charges during evening summer youth sports programs at multiple elementary school locations.

10C Authorize Expenditure, Acacia Council District Funds

Authorized an expenditure of up to \$45,000 in Acacia Council District Funds to support the City's "Fiesta Peoria" special event.

11C Memorandum of Understanding, Maricopa County, United States Department of Justice Edward Byrne Memorial Justice Assistance Grant

- (a) Entered into a Memorandum of Understanding with Maricopa County in order to accept a pass-through grant award from the United States Department of Justice's Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$21,381 for the Police Department to administer a youth summer program; and
- (b) Approved a budget transfer in the amount of \$21,381 from the Proposed Grants Contingency Account to the Justice Assistance Grant Award Account.

12C Designate Roadways, Establish Rights-of-Way, Various Locations

RESOLUTION NO. 2012-53

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF PUBLIC STREETS, TO BE OPENED AND MAINTAINED BY THE CITY.

Adopted **RES. 2012-53** designating various Real Properties to be used as City roadways and authorize the establishment of Public Rights-of-Way to be opened and maintained by the City as a Public Street.

13C Deeds and Easements, Various Locations

RESOLUTION NO. 2012-52

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. 2012-52** accepting Deeds and Easements for various real property interests acquired by the City and previously recorded by the Maricopa County Recorder's Office.

14C Public Utility Easement, Intersection Widening Improvements, 75th Avenue and Thunderbird Road

RESOLUTION NO. 2012-54

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, AUTHORIZING THE GRANTING OF AN EASEMENT TO THE PUBLIC RELATED TO THE RELOCATION OF EXISTING FACILITIES IN THE VICINITY OF 75TH AVENUE AND THUNDERBIRD ROAD.

Adopted **RES. 2012-54** authorizing the execution of a Public Utility Easement to the Public for the installation and maintenance of public utilities associated with the construction of the 75th Avenue and Thunderbird Road Intersection Widening Project.

REGULAR AGENDA

NEW BUSINESS

15R Memorandum of Understanding, Seattle Mariners and San Diego Padres, Peoria Sports Complex Improvements

At the beginning of the meeting, Mayor Barrett announced that Agenda Item 15R related to a Memorandum of Understanding regarding the financing and construction of improvements, and ongoing use of the Peoria Sports Complex for the Seattle Mariners and San Diego Padres, was pulled at staff request.

16R Contract Amendment, Populous Inc., Peoria Sports Complex Improvements, 83rd Avenue and Stadium Way

At the beginning of the meeting, Mayor Barrett announced that Agenda Item 16R related to: (a) award Contract Amendment (CA) No. 3 to Populous Inc. in the not to exceed amount of \$2,990,000 for the complete design and construction administration of clubhouse improvements for the Seattle Mariners and San Diego Padres; and (b) approve a budget transfer in the amount of \$9,550 to pay for a temporary part-time Construction Projects Coordinator position for the period May 14, 2012 to June 30, 2012, was pulled at staff request.

17R Agreement, Mortenson Construction, Peoria Sports Complex Improvements, 83rd Avenue and Stadium Way

At the beginning of the meeting, Mayor Barrett announced that Agenda Item 17R related to: (a) authorize the City to enter into an agreement with Mortenson Construction for an amount not to exceed \$275,000 for Construction Manager at Risk (CMAR) preconstruction services for the Seattle Mariners and San Diego Padres clubhouse improvements; and (b) authorize the City Manager to execute any applicable agreement documents related thereto, was pulled at staff request.

18R Rezoning, Major Planned Community District (PCD) Amendment, Vistancia

Clerk's Note: Items 18R and 19R were presented together.

ORDINANCE NO 2012-07

AN ORDINANCE OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA AMENDING AND INCREASING THE AREA OF THE EXISTING PLANNED COMMUNITY DISTRICT (PCD) ZONING OF THE VISTANCIA SOUTH PLANNED COMMUNITY DISTRICT; AMENDING THE ZONING MAP AND PROVIDING FOR AN EFFECTIVE DATE.

Chris Jacques, Planning and Community Development Director, announced that Agenda Items 18R and 19R will be presented together. Mr. Jacques reviewed the request to amend the zoning for a Major Planned Community District in Vistancia.

Scott Whyte, Economic Development Director, presented regarding proposed revisions to the development agreement for the Vistancia Master Planned Community.

Andy Granger, Engineering Director, outlined the traffic impacts within the Vistancia Master Planned Community.

Discussion ensued regarding measuring traffic impacts.

Bill Mattingly, Public Works and Utilities Director, reviewed water and wastewater infrastructure in the Vistancia Master Planned Community.

Samual Paparazzo addressed Council regarding tax revenue shortfalls related to Vistancia and potential increases in property taxes. A copy of Mr. Paparazzo's statement was incorporated and attached hereto.

Mark Hammons, representative from Sunbelt Holdings, addressed Council regarding Mr. Paparazzo's concerns.

Motion was made by Councilmember Carlat, seconded by Vice Mayor Aames, to concur with the Planning & Zoning Commission to adopt **ORD. 2012-07** amending and consolidating the Vistancia North and Vistancia South Planned Community Districts comprised of approximately 7,100 gross acres of property, generally located west of the Loop 303 and between the Jomax Road and Old Carefree Highway alignments. (Z01-10A.11)

Upon vote, the motion carried unanimously 7 to 0.

19R Development Agreement, Amended and Restated, Vistancia Master Planned Community

Clerk's Note: Items 18R and 19R were presented together.

Motion was made by Councilmember Carlat, seconded by Vice Mayor Aames, to authorize the City Manager to sign an amended and restated Vistancia Development Agreement with Vistancia Land Holdings, LLC.

Upon vote, the motion carried unanimously 7 to 0.

20R Amendment, Lease Agreement, Plaza Companies, BioInspire

Scott Whyte, Economic Development Director, outlined the proposed amended lease agreement between the City of Peoria and Plaza Companies.

Motion was made by Councilmember Carlat, seconded by Vice Mayor Aames, to authorize the City Manager to sign an amended lease agreement with Plaza Companies.

Upon vote, the motion carried unanimously 7 to 0.

21R Code Amendment, Chapter 5, Building Codes

ORDINANCE NO. 2012-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 5 BUILDINGS AND BUILDING REGULATIONS OF THE PEORIA CITY CODE (1992) BY REPEALING SECTION 5-3 PERTAINING TO DWELLING UNIT SECURITY PROVISIONS AND ADOPTING SECTION 5-3 PERTAINING TO INTERNATIONAL ENERGY CONSERVATION – ADOPTED AND AMENDED; AMENDING SECTION 5-4 PERTAINING TO INTERNATIONAL PROPERTY MAINTENANCE CODE – ADOPTED AND AMENDED; REPEALING SECTION 5-7 PERTAINING TO MOVING BUILDINGS AND DESIGNATING SECTION 5-7 AS RESERVED; AMENDING SECTION 5-8 PERTAINING TO SLUM PROPERTY DESIGNATION AND APPEALS; INSPECTION FEES; AMENDING SECTION 5-9 PERTAINING TO BUILDING BOARD OF APPEALS; AMENDING SECTION 5-21 PERTAINING TO INTERNATIONAL BUILDING CODE – ADOPTED AND

AMENDED; REPEALING SECTION 5-24 PERTAINING TO INSULATION MATERIALS AND DESIGNATING SECTION 5-24 AS RESERVED; AMENDING SECTION 5-25 PERTAINING TO INTERNATIONAL RESIDENTIAL CODE – ADOPTED AND AMENDED; AMENDING SECTION 5-41 PERTAINING TO NATIONAL ELECTRICAL CODE – ADOPTED AND AMENDED; AMENDING 5-44 INTERNATIONAL PLUMBING CODE – ADOPTED AND AMENDED; AMENDING SECTION 5-76 PERTAINING TO INTERNATIONAL MECHANICAL CODE – ADOPTED AND AMENDED; AMENDING SECTION 5-78 PERTAINING TO FUEL GAS CODE – ADOPTED AND AMENDED; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Scott Whyte, Economic Development Director, explained the request to adopt the current 2012 Energy Conservation Code, which is a new code for the City and update the 2006 codes that have already been adopted by the City.

Dennis Marks, Building Inspector, outlined some of the requirements within the 2012 Energy Conservation Code.

Motion was made by Vice Mayor Aames, seconded by Councilmember Evans, to adopt **ORD. 2012-08** amending Chapter 5 of the Peoria City Code (1992 Edition) by adopting the 2012 International Building Code, 2012 International Residential Code, 2012 International Mechanical Code, 2012 International Plumbing Code, 2012 International Fuel Gas Code, 2012 International Property Maintenance Code, 2012 International Energy Conservation Code and the 2011 National Electrical Code.

Upon vote, the motion carried unanimously 7 to 0.

22R Authorization, File Third Party Complaint, Superior Court in Maricopa County, McCracken v. City of Peoria

Steve Kemp, City Attorney, reviewed the need to file a third party complaint in the Superior Court in Maricopa County for McCracken v. City of Peoria.

Motion was made by Councilmember Rivero, seconded by Councilmember Carlat, to authorize the filing of a third party complaint in Superior Court in Maricopa County Case No. CV2011-091677, McCracken v. City of Peoria.

Upon vote, the motion carried unanimously 7 to 0.

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)

None.

Reports from the City Manager:

1. Council Calendar
2. Reports with Presentation

None.

3. Informational (The following items are included for informational purposes only. There will be no separate discussion of these items unless a Councilmember so requests.)

Carl Swenson, City Manager, informed Council that their Agenda packet contains information related to the following items:

- a. Council Subcommittee Update
- b. Board and Commission Member Events
- c. Energy Star Certification for Development and Community Services Building

Reports from City Council:

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

Councilmember Carlat informed citizens that the Vistancia Elementary PTO is holding a Carnival on Lake Pleasant Parkway and Mariposa Grande from May 3rd through May 6th beginning at 5:00 on Thursday and going through the weekend.

Councilmember Evans reviewed some events she attended or was involved with that included young students.

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

Reports from the Mayor:

Mayor Barrett reviewed the Relay for Life event on April 28th and expressed appreciation for the support.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 8:06 p.m.

Bob Barrett, Mayor

ATTEST:

Wanda Nelson, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the Regular Meeting of the City Council of Peoria, Arizona held on the 1st day of May, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 15th day of May, 2012.

(Seal)

Wanda Nelson, City Clerk

RE: Rezoning, Major Planned Community District (PCD) Amendment, Vistancia: **ORD. 2012 - 7**

May 1, 2012 Prepared Statement Presented by Vistancia Residential Lot Owner (30764 N 126th Dr) Samuel Paparazzo

At the time of the original development agreement with Sunbelt Holdings, Vistancia was assigned a special taxing district to pay for amenities. With the proposed reduction by one-third fewer homes, this will translate into less of the anticipated sales and property tax revenue planned for at the time of the original agreement. My understanding is that in exchange for being allowed to renege on the original agreement made with the City of Peoria, Sunbelt Holdings will donate to the City, fifty acres of land to be used by the City to attract a major employer to the area which should make up for this tax revenue shortfall.

As a residential lot owner in Vistancia, a major concern is that if the anticipated economic development does not take place, the residential lot owners in Vistancia will more than likely be called upon to make up any short falls in tax revenue.

Also, my lot owner property is part of the Vistancia Village A Association which has an approximate \$650,000.00, 2012 operating budget deficiency that is currently being subsidized by Sunbelt Holdings. So not only do the Vistancia lot owners face the potential for higher property taxes, they may also have to deal with a significant increase in lot owner maintenance fees paid to the Association upon Sunbelt Holdings exiting of their Vistancia project.

Additionally, the coming years will more than likely see a spike in needed capital expenditures for replacement cost upkeep to an aging infrastructure to be left to be funded for by either the Vistancia lot owners and/or by the City of Peoria.

For those Council Members, that will be deciding to vote in favor of Sunbelt Holdings request to renege on the original agreement made with the City of Peoria, I would like for you to consider these three (3) suggestions as conditional terms for any revised agreement entered into with Sunbelt Holdings:

1. Establishment of a property & sales tax escrow fund. Require Sunbelt Holdings to establish an escrow fund to be used to make up the difference in the forecasted property and sales tax revenue shortfall for the Vistancia special taxing district. This escrow fund would be in place for the City's use from the time a revised agreement is reached to a period of five years after Sunbelt Holdings' exiting of their Vistancia project.
2. Establishment of Association escrow funds. Require Sunbelt Holdings to establish an escrow fund for each of the Associations comprising the Vistancia Community to be used to fund any of the Associations operating budget deficiencies existing at the time of Sunbelt Holdings exiting of their Vistancia project. Each of these escrow funds would be in place for use by each Association until such time that each Association no longer has an annual operating budget deficiency. Additionally, lot owner Association fee increases must be capped at no more than 5% annually prior to Sunbelt Holdings exiting of their Vistancia project and prior to turning over control of the Association Boards to the lot owner members of the Associations.
3. Audit and inspect. Hire a qualified & impartial third party expert to audit construction & maintenance records for the Vistancia Community while also having this third party complete a thorough inspection of the Community infrastructure. These activities would take place approximately six months prior to Sunbelt Holdings exiting of their Vistancia project. Sunbelt Holdings would be responsible, at their expense, for addressing any deficiencies identified and make necessary repairs, adjustments, etc. prior to the exiting of their Vistancia project.

In closing, it is my hope that the Members of this Council will place the best interests of the citizens it was elected to serve over the best interests of big business and choose not to sell out the residents of Vistancia for fifty acres of land.

Thank you for your time and consideration.