

City Council Meeting Notice & Agenda



Wednesday, June 04, 2014
City Council Chamber
8401 West Monroe Street
Peoria, AZ 85345

Special Meeting

5:00 P.M. Convene

Pledge of Allegiance
Roll Call
Final Call To Submit Speaker Request Forms

Regular Agenda

New Business

1R. **Reconsideration of City Council Policy, Council Vacancies, (May 20, 2014)**

Discussion and possible action to:

- (a) Reconsider Council action adopting Agenda Item 34R on May 20, 2014, and if "a" is approved;
- (b) Amend City Council Policy on Council Vacancies.

Call To The Public (Non-Agenda Items)

If you wish to address the City Council, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. The City Council is not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Mayor
Bob Barrett

Palo Verde
District
Ron Aames,
Vice Mayor

Acacia
District
Tony Rivero

Ironwood
District
Bill Patena

Mesquite
District
Vacant

Pine
District
Carlo Leone

Willow
District
Jon Edwards

Adjournment

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Council Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

Accommodations for Individuals with Disabilities. *Alternative format materials, sign language interpretation and assistive listening devices are available upon 72 hours advance notice through the Office of the City Clerk, 8401 West Monroe Street, Peoria, Arizona 85345 – Phone: (623) 773-7340 or FAX (623) 773-7304. To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request. The City has a TDD line where accommodations may be requested at: (623) 773-7221.*

PUBLIC NOTICE:

In addition to the City Council members noted above, one or more members of the City of Peoria Boards and Commissions may be present to observe the City Council meeting as noticed on this agenda.

City Council Meetings can be viewed live on Channel 11 (Cox Cable) and are available for viewing on demand at <http://www.peoriaaz.gov/content2.aspx?id=2151>.

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Date Prepared: June 2, 2014

Council Meeting Date: June 4, 2014

TO: Honorable Mayor and City Council
FROM: Stephen M. Kemp, City Attorney
SUBJECT: Proposed changes to City Council Policy 1-3; Procedure for Consideration of Candidates when Vacancies occur on the City Council

Purpose:

This is a request for City Council to reconsider its action taken on May 20, 2014 perating to City Council Policy 1-3; Procedure for Consideration of Candidates when Vacancies occur on the City Council.

Background/Summary:

In order for this matter to be reconsidered, a member of the prevailing side who voted in the negative on May 20, 2014, will need to make a motion to reconsider. Assuming a motion is made and seconded, motions to reconsider are precedential and immediately proceed to a vote. The Council will only be voting on reconsidering its action, which returns the matter to the floor.

As I previously indicated, I became aware from a citizen complaint that concerns have been expressed whether the secret ballot provisions of the current policy violates the Arizona Open Meetings Act. While the Open Meetings Act contains no provisions governing secret ballots, in order to avoid complaints over such matters that could interfere with the vacancy process a proposed amendment is submitted to the Council. As I have indicated violations of the open meeting law can result in personal fines, sanctions against the City, and even removal from office. Actions taken in violation of the open meetings law are null and void.

After the previous meeting I have followed up on a number of legal questions that were posed in regard to this matter. At this point, it is my recommendation as City Attorney that the Council reconsider its action on this matter in order to return it to the floor for discussion. Further it is my recommendation that you adopt amendments to the City Council Policy. Based on comments that I have received; I prepared a revised draft council policy attached to this Council Communication. However, there are a number of different ways this could be handled and comply with the open meetings act. I will be prepared to revise the policy at the meeting based on any suggestions that the council may make. Due to the existence of a City Council vacancy, there is not sufficient time to provide for review of the policy and a Study Session, so the matter is being submitted to the Council directly.

Previous Actions:

The Council considered this item at its October 29, 2013, Study Session. Subsequently on December 10, 2013, the City Council adopted an amendment to the City Council policy. On May 20, 2014, a proposed amendment was rejected by the City Council. Prior to this matter coming to the Council, it was reviewed by the Policy and Appointments Subcommittee and sent forth to the Council for study session review.

Options:

A: Adopt the proposed amendments to the City Council Policy 1-3; Procedure for Consideration of Candidates when Vacancies occur on the City Council.

B: Reject the proposed amendments to the City Council Policy 1-3; Procedure for Consideration of Candidates when Vacancies occur on the City Council.

Staff's Recommendation:

In the proposed policy strikethrough means the language is deleted and bold italics means the language is added.

As this matter is solely within the Council's jurisdiction, no recommendation is made on adoption. Staff does note that the policy fully incorporates best practices from other jurisdictions and provides Council flexibility in addressing this matter.

Fiscal Analysis:

Not Applicable

Exhibit #1:

Proposed changes to City Council Policy 1-3; Procedure for Consideration of Candidates when Vacancies occur on the City Council

Contact Name and Number:

Stephen M. Kemp, City Attorney
(623) 773-7321

 <p style="text-align: center;">CITY COUNCIL POLICY</p>	CP 1-3
	Category: General Department: CITY ATTORNEY
TITLE: Procedure for Consideration of Candidates for Vacancies on the City Council	Approved:

A. Purpose

This policy establishes the procedures which the City Council will use in considering candidates to fill a vacancy on the City Council should a vacancy occur.

B. Procedure

1. Charter Provisions.

- a. The Peoria City Charter provides that should a Council seat become vacant, the seat will be filled by appointment if the vacancy occurs less than seven hundred and forty (740) days prior to the next regular election for a council member from the district in which the vacancy occurred. The appointment will be on an interim basis if there is more than seven hundred and forty (740) days remaining in the term of the vacated Council seat or for the remainder of the term if there is seven hundred and forty (740) days or less remaining. Should the position of Mayor become vacant, the Vice Mayor will automatically succeed to the position of Mayor and upon succession to the Mayor position, the Council seat held by the Vice Mayor will automatically become vacant.
- b. A vacancy occurs upon filing of a Letter of Resignation by a Council member or by operation of law in other cases such as death, succession to another office, conviction and sentence for a felony, etc.
- c. If a vacancy occurs seven hundred and forty (740) days or more prior to the next regular election for the vacant position, the City Charter requires that within 10 calendar days following the vacancy, prospective candidates must file a letter with the City Clerk indicating their intent to run for the seat in the subsequent election.

- 2. Application: Within 10 days following their filing of a Letter of Intent pursuant to section 1.c., a candidate for consideration for appointment to a vacancy on the City Council shall file an application with the City Clerk. The application shall be a public record subject to disclosure, with the exception of personal identifying information.

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- a. Upon the close of the application period, the City Clerk shall provide to the Mayor and each Council member copies of the applications filed by prospective candidates.
- b. The City Clerk shall also provide to the City Manager a copy of the applications filed by prospective candidates.

3. Questions.

- a. Within 10 calendar days following receipt of the applications by the Mayor and Council members, each Council member may submit to the Mayor any questions that they desire be asked of all applicants. The Mayor may also include questions that he/she desires be asked of all applicants.
- b. The Mayor shall compile a list of questions from those submitted that will be asked of all applicants. The list of questions shall not be a public record subject to disclosure until the date and time of the interview of candidates. Prior to the special Council meeting where candidates will be interviewed, the Mayor shall randomly assign the questions to be asked by Council members.

4. Interviews.

The Mayor shall set a special Council meeting to interview all candidates desiring consideration for appointment to a vacancy on the City Council. The interviews shall be held in open session. The following process shall be used for the interviews.

- a. The Mayor shall randomly select the order in which the candidates will be interviewed.
- b. Each candidate shall be given three minutes to introduce themselves to the City Council and the public that may be present.
- c. The Mayor will recognize one Council member at a time to ask the assigned question(s) of each candidate.
- d. Following the Mayor and Council interview questions, each applicant will be given the opportunity to ask one question of the Council.
- e. Following completion of the interview process, the Mayor shall declare the interview process closed.

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5. Consideration.

After close of the interview process, the Mayor shall declare the discussion open among the Council for consideration of the applicants. The Council shall consider the applicants in an open and public session. Upon completion of discussion, the Mayor shall declare the floor to be open for nominations.

- a. Any Council member may nominate one candidate. No second is required.
- b. If there are no further nominations to be made, the Mayor shall declare nominations to be closed.

6. Voting.

If there is only one nomination, then a motion to select that individual by acclamation should be entertained by the Presiding Officer. If, there is more than one nomination for the vacant seat, the Presiding Officer should announce that the seat will be filled by a secret ballot of the Council.

- a. ~~The City Clerk will call the nominations in Alphabetical Order starting with the last name closest to the letter "A". After the first name is called, the Council will be polled and those Council members supporting that nominee shall indicate by stating "aye". Those Council members opposing the nominee may remain silent. Those Council members opposing the nominee may remain silent. distribute blank ballots. Each Councilmember should write in the name of the candidate that they desire to vote for and fold the ballot. The City Clerk will then repeat the process with each additional nominee, until the last nominee has been voted on. The City Clerk will collect the ballots and the City Attorney and City Clerk will count the ballots in the Executive Session Conference Room, and provide the Mayor with a tally sheet indicating the votes for each candidate.~~

The City Clerk will prepare a number of ballots equal to the number of members of council. Each ballot will have the council member's name at the top and will list the candidates who were nominated. The ballots will be distributed to the respective council members, who will then complete their ballots. The ballots will then be collected by the City Clerk and the City Attorney and City Clerk will count the ballots in the Executive Session Conference Room and provide the Mayor with a tally sheet indicating the votes for each candidate. The Ballots shall be attached to the minutes of the meeting.

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Once voting is completed, if a candidate receives a majority of the votes, the Mayor shall declare the candidate appointed. For purposes of this policy, in accordance with the Peoria City Charter, the term "majority of the votes" means those Council members present and voting. The candidate with the most votes is appointed to fill the vacant seat.

- b. If no candidate receives a majority of the votes, the two candidates receiving the most votes shall move on to a second ballot.
- c. The second ballot shall be held in the same manner provided for the first ballot. In the event of a tie on the second ballot, the Mayor may elect to schedule a third ballot or address the matter at a future regular council meeting or a special meeting in accordance with City policies and procedures.
- d. Once voting is completed, the Mayor shall announce the individual who has obtained the most votes.

APPROVED:

Bob Barrett, Mayor

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Adopted: 4/6/06, CC #6C [Prior Numbering: CP-06-02]

Amended 9/18/07, CC #6C

Amended 12/10/13, CC #23R

Amended __ __/14, CC #__