



MUNICIPAL OFFICE COMPLEX
8401 W. MONROE STREET
PEORIA, AZ 85345

**CITY COUNCIL SUBCOMMITTEE ON
POLICY & APPOINTMENTS
NOTICE & AGENDA
Tuesday, June 12, 2012
5:00 PM
PINE CONFERENCE ROOM**

**CITY COUNCIL SUBCOMMITTEE
ON POLICY & APPOINTMENTS:**

Chairperson

Dave Pearson, Councilmember
Ironwood District

Members

Ron Aames, Vice Mayor
Palo Verde District

Carlo Leone, Councilmember
Pine District

Staff Liaison

Wanda Nelson, City Clerk

Liaison City Attorney's Office

Steve Kemp, City Attorney

**Accommodations for
Individuals with Disabilities.**
*Alternative format materials,
sign language interpretation,
assistive listening devices or
interpretation in languages other
than English are available upon
72 hours advance notice
through the Office of the City
Clerk, 8401 West Monroe
Street, Room 150, Peoria,
Arizona 85345 (623)773-7340,
TDD (623)773-7221, or FAX
(623) 773-7304. To the extent
possible, additional reasonable
accommodations will be made
available within the time
constraints of the request.*

**CONVENE:
ROLL CALL:**

FINAL CALL TO SUBMIT SPEAKER REQUEST FORMS:

CONSENT AGENDA

CONSENT AGENDA: All items listed with "C" are considered to be routine or have been previously reviewed by the City Council, on Policy and Appointments 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 – New Business:

1C Minutes

Discussion and possible action to approve the May 8, 2012 meeting minutes of the City Council Subcommittee on Policy and Appointments.

REGULAR AGENDA

UNFINISHED BUSINESS

2R Boards and Commissions Vacancies

Discussion and possible action to appoint, reappoint, recruit, or schedule interviews for various city Boards and Commissions including, but not limited to, the Board of Adjustment, Economic Development Advisory Board, and Municipal Development Authority.

3R Code of Ethics for Elected Officials and/or Citizen Advisory Committees

Discussion and possible action to recommend the adoption of a Code of Ethics for members of the Peoria City Council and Citizen Advisory Committees.

4R Board and Commission Appointment Process

Discussion and possible action regarding the appointment process related to qualifications and filling Board and Commission vacancies.

NEW BUSINESS

5R Future Agenda Topics and Next Meeting Date

Discussion of future agenda items (if any) for City Council Subcommittee on Policy and Appointments.

NOTE: Per Council Policy 1-10, no policy item will come forward unless submitted on the *Subcommittee Agenda Item Request Form*.

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)

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

Reports from Staff:

ADJOURNMENT

NOTES:

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

PUBLIC NOTICE:

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

**CITY OF PEORIA, ARIZONA
PINE CONFERENCE ROOM
May 8, 2012**

A **Regular Meeting** of the **Policy & Appointments Subcommittee** of the City of Peoria, Arizona, was convened by Chairperson Dave Pearson in an open and public session at 8401 W. Monroe Street, Peoria, Arizona on April 10, 2012 at 5:02 p.m.

Members Present: Chairperson Dave Pearson, Councilmember Carlo Leone, and Vice Mayor Ron Aames.

Members Absent: None.

Other Municipal Officials Present: Susan Thorpe, Deputy City Manager; Rhonda Geriminsky, Chief Deputy City Clerk; Natalie Gilstrap, City Clerk Specialist; Steve Kemp, City Attorney; and Terri Smith, Council Assistant.

Audience: One staff and one member of the public

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

Consent Agenda

A motion was made by Councilmember Leone, and seconded by Vice Mayor Aames to approve the consent agenda. Upon vote, the motion carried unanimously 3 to 0.

Minutes:

1C Minutes

Approved the minutes of the March 15, 2012 Policy and Appointments Subcommittee Meeting.

REGULAR AGENDA

2R Code of Ethics for Elected Officials and/or Citizen Advisory Committees

The subcommittee continued the discussion on a draft Code of Ethics, which was revised after the April 10, 2012 subcommittee discussion.

Ms. Thorpe presented a revised working copy for review by the members. Discussion took place regarding further revisions. Ms. Thorpe committed to making the recommended revisions to the text and submitting to the Board for their individual review prior to the next meeting.

By consensus, the subcommittee agreed to review the revised copy when provided by Ms. Thorpe. Members agreed to return their individual comments to Ms. Thorpe once their review was complete. The revised draft document will be brought back to the subcommittee for final review at the next meeting.

3R Boards and Commissions Vacancies

It was recommended that Aria Reams be appointed to the Youth Advisory Board. A motion was made by Vice Mayor Aames and seconded by Councilmember Leone. Upon vote, the motion carried unanimously 3 to 0.

It was recommended that Leonard Spraker be appointed to the Planning and Zoning Board. Mr. Spraker is currently a member of the Board of Adjustments, a scheduled board. To comply with city ordinances, Mr. Spraker must agree to resign from the Board of Adjustments prior to his appointment to the Planning and Zoning Board, a scheduled board. A motion was made by Vice Mayor Aames and seconded by Councilmember Leone. Upon vote, the motion carried unanimously 3 to 0.

It was recommended that Richard Ward be appointed to the Parks and Recreation Board for the term expiring in 2014, and that Donald Biery be appointed to the Parks and Recreation Board for the term expiring in 2016. A motion was made by Vice Mayor Aames and seconded by Councilmember Leone. Upon vote, the motion carried unanimously 3 to 0.

It was recommended that Jaimey Lynn bishop be appointed to the Economic Development Advisory Board, and that Phil Denaro be appointed as an alternate to the Economic Development Advisory Board. A motion was made by Vice Mayor Aames and seconded by Councilmember Leone. Upon vote, the motion carried unanimously 3 to 0.

4R Board and Commission Appointment Process

Staff provided a list of boards and commissions with residency exceptions. Material will be reviewed by subcommittee members and discussed at next subcommittee meeting.

5R Future Agenda Topics and Next Meeting Date

The subcommittee requested that the issue of residency requirements and the previously discussed ethics policy be placed on the next agenda.

Reports from Staff: None

CALL TO THE PUBLIC: No members of the public came forward at this time.

ADJOURNMENT:

There being no further business to come before the Subcommittee, the meeting was duly adjourned at approximately 6:52 p.m.

Dave Pearson, Chairperson

Terri Smith, Council Assistant

DRAFT

STAFF - COUNCIL SUBCOMMITTEE COMMUNICATION

DATE: October 17, 2011
TO: Carl Swenson, City Manager
FROM: Wanda Nelson, City Clerk (W)
THROUGH: Susan K. Thorpe, Deputy City Manager
SUBJECT: Boards and Commissions Appointments/Reappointments

Background:

City Council Policy 1-5 Appointment to Boards and Commissions establishes the standard policy for City Council to make member appointments to the city's official Boards and Commissions. In part, CP1-5 provides for the following:

- *Council Subcommittee on Board and Commission Appointments (now referred to as the City Council Subcommittee on Policy and Appointments) shall determine how members are identified, selected, processed, trained, and recognized for service.*
- *An open competitive processed will be used to fill any vacancies to the city's official Boards and Commissions.*
- *Candidate interviews may be conducted.*
- *Subcommittee recommendations are forwarded to the Mayor and Council with a 10 day comment period to the Mayor.*
- *Upon no adverse comments from the majority of the Council members, Subcommittee recommendations are submitted via a Resolution for official action.*

Previous Actions:

The Council Subcommittee on Boards and Commissions previously met on a monthly basis to address vacancies and upcoming vacancies to the various city Boards and Commissions.

Options:

A: *That the City Council Subcommittee on Policy and Appointments continue to meet on an as needed basis to make recommendations for appointments and reappointments to the city's various official Boards and Commissions.*

Staff's Recommendation:

No further action is required – this is an ongoing agenda item for the City Council Subcommittee on Policy and Appointments.

Tracking # 007

STAFF - COUNCIL SUBCOMMITTEE COMMUNICATION

Fiscal Analysis:

There is no fiscal impact related to this item.

Exhibit(s): _____

Contact Name and Number: Natalie Gilstrap, 773-7340

City Manager's Office Use:

Date of receipt: *10/19/11*

Policy issue: Yes No If denied, explain _____

Subcommittee assignment: *10/24/11*

Transferred to Subcommittee Staff Liaison on:

Subcommittee agenda date:

Subcommittee Action:

- No further action
- Study session referral
- Regular agenda referral
- City Manager referral

Tracking # *007*

City Council Subcommittee on
Policy and Appointments

Tuesday, June 12, 2012 - 6:00 p.m.

STAFF REPORT

BOARD OF ADJUSTMENT (SCHEDULED)

Leonard Spraker, regular member, resigned to accept appointment to the Planning and Zoning Commission.

One (1) vacancy is created with a term to expire December 2014.

ECONOMIC DEVELOPMENT ADVISORY BOARD (SCHEDULED)

The terms for **David Bentler**, regular member, and **Jay Cross**, alternate, expire June 2012.

Two (2) vacancies are created with a terms to expire December 2016.

On May 8, 2012, the Council Subcommittee recommended Jamey Lynne Bishop, as a regular member, and Philip Denaro, Jr., as an alternate member, with terms to expire June 2016.

On June 5, 2012, Resolution 2012-78 making the above referenced appointments was pulled from the City Council meeting agenda.

MUNICIPAL DEVELOPMENT AUTHORITY (UNSCHEDULED)

Leonard Spraker, regular member, resigned to accept appointment to the Planning and Zoning Commission.

One (1) vacancy is created with a term to expire November 2015.

Boards and Commissions
Upcoming Term Expirations and Vacancies

Boards/Commissions/Authorities	Member Names	Comments	Interested in Reappt? Yes or No	Member Status	Districts	Term Expiration Dates	Eligible for Reappt?	Staff Liaisons Staff Assistants
Board of Adjustment (Scheduled)	Leonard Spraker	Resigned for Appt. to P&Z	N/A	Regular	Palo Verde	Dec-14	N/A	Chris Jacques Beverly Parcels
Economic Development Advisory Board (Scheduled)	David Bentler	5/8/12 - recommended Jamey Lynne Bishop	N/A	Regular	Non-Resident	Jun-12	No	Scott Whyte Tamara Overton
Economic Development Advisory Board (Scheduled)	Jay Cross	5/8/12 - recommended Philip Denaro, Jr.	Unknown	Alternate	Non-Resident	Jun-12	Yes 2-Yr. Term	Scott Whyte Tamara Overton
Municipal Development Authority (Unscheduled)	Leonard Spraker	Resigned for Appt. to P&Z	N/A	Regular	Palo Verde	Nov-15	N/A	Brent Mattingly Debbie Card

**MAYOR AND COUNCIL
SUBCOMMITTEE AGENDA ITEM
REQUEST FORM**

DATE: 12/24/2011

TO: Carl Swenson, City Manager

FROM: Dave Pearson

SUBJECT: Code of Ethics for Elected Officials and Citizen Advisory Committees

1. Provide a description of the agenda item.

Create and discuss a draft ethics code covering elected officials and citizen advisory committees/boards.

2. Explain the policy issue related to the agenda item.

The Subcommittee on Policy and Appointments is currently considering policy and procedures governing a council ethics committee. The subcommittee should also consider a policy and/or handbook regarding Ethics Conduct for elected officials and citizen advisory committees/boards. I suggest we look at existing ethics codes in Mesa and Phoenix as starting points. I request that staff present the subcommittee with a draft ethics code for discussion.

City Manager's Office Use:

Date of receipt: 24 Dec 2011

Policy issue: Yes No If denied, explain _____

Subcommittee assignment: Policy and Appointments

Transferred to subcommittee staff liaison on: 1-5-12

Subcommittee agenda date:

Subcommittee action:

- No further action
- Study session referral
- Regular agenda Action
- City Manager Action

Tracking # 42

Prepared by Councilmember Dave Pearson – March 6, with approved changes from March 15 and April 10, 2012, plus edits from May 8 subcommittee and staff comments

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 CITY COUNCIL POLICY	CP - - <i>[ASSIGNED BY CMO]</i> Category: <i>[One of pre-existing list]</i>
	Department: <i>[Originating or responsible department]</i>
TITLE: <i>Ethics Code for Public Officials (City Council and Board and Commission members)</i>	Approved: <i>[Date of Council Meeting]</i>

A. Purpose

Peoria City Government operates best when employees and elected and appointed officials are independent, impartial, and responsible to the people of Peoria. Government decisions and policy should be made publicly and no public office shall be used for personal gain. Employees and elected and appointed officials should aspire at all times to conduct themselves in a way that ensures the greatest possible public confidence in their roles as public servants.

Recognizing that a separate employee code of ethics is promulgated and enforced by the City Manager, the purpose of this policy statement is to set forth guidelines for ethical standards for the City Council and board and commission members.

It is expected that all Public Officials read and understand this policy. Public Officials must respect and honor the positions of public trust which they hold and strive to maintain and enhance confidence in Peoria City Government.

Public Officials are encouraged to seek the advice of the city attorney in matters regarding this Code of Ethics.

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B. Definitions

1. "Public Officials" shall mean members of the City Council and members of City Boards and Commissions.
2. "Substantial interest" shall mean any pecuniary or proprietary interest, either direct or indirect, other than a remote interest as defined by state law.

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Councilmember Dave Pearson – March 6, 2012

3. "Immediate family" shall mean individuals who are married to each other and any children of those individuals.
4. "De minimis" shall mean an item with a value so minor as to be negligible, trivial or trifling. Often used to describe exemptions in government rules and regulations. ~~In the City of Peoria, "de minimis" means an item of little value as defined by the City's Ethics Committee and City Manager's Office. As of January~~For purposes of Public Officials, 2012, this value has been is set at ~~\$10.00~~ \$50.00. This means items with a value up to ~~\$40.50~~ \$50.00 can be accepted on an occasional basis by an individual Public Official when offered as a gesture of kindness or appreciation.
5. "Confidential information" shall mean information acquired in an Executive Session or that has specifically been identified by the city attorney as privileged in accordance with Arizona Revised Statutes
6. "Electioneering" shall mean a demonstration of express support for or opposition to a candidate who appears on the ballot in that election, a ballot question that appears on the ballot in that election or a political party with one or more candidates who appear on the ballot in that election, and includes any use of a candidate's or political party's name or a ballot measure's name or numeric designation and any verbal expressions of opposition or support.
7. "Electioneering materials" shall mean written or printed material or items, including articles of clothing, that express support for or opposition to a candidate who appears on the ballot in that election, a ballot question that appears on the ballot in that election or a political party with one or more candidates who appear on the ballot in that election.

C. Standards

1. Public Officials shall comply with this ethics code, the U.S. Constitution, Arizona Constitution, federal and state statutes, city charter, city code, and council policies. They should be guided by the spirit as well as the letter of the law in whatever they do.
2. Public Officials shall uphold the integrity and independence of their positions, as follows:
 - a. No Public Official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
 - b. ~~No Public Official shall participate in selection or award of a contract if the contract involves their own or their immediate family's substantial interest.~~

Councilmember Dave Pearson – March 6, 2012 with edits as of May 8, 2012

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b. No Public Official shall use their official position or the city's facilities for their personal gain or for the personal gain of any individual which would not be available to any other member of the public in the same or similar circumstances.

~~d. No Public Official shall appear before or represent any private person, group or interest before the City Council or any board or commission of the city. The provisions of this paragraph are not intended to prohibit a Public Official from speaking before neighborhood groups and other nonprofit organizations.~~

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c. If a Public Official or their immediately family has a substantial interest in any contract, sale, purchase or service, the Public Official shall make known that interest in the official records of the City and shall refrain from voting upon or otherwise participating in any manner in such contract, sale or purchase.

d. If a Public Official or their immediate family has a substantial interest in any decision of the City, the Public Official shall make known such interest in the official records of the City and shall refrain from participating in any manner in such decision.

~~ed. No Public Official shall appear before or represent any private person, group or interest before the City Council or any board or commission of the city. The provisions of this paragraph are not intended to prohibit a Public Official from speaking before neighborhood groups and other nonprofit organizations.~~

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3. Public Officials shall avoid impropriety and the appearance of impropriety in their official and personal actions, as follows:

a. Arizona law prohibits Public Officials from receiving anything of value or any compensation other than their normal salary for any service rendered in connection with that person's duties with the City. A.R.S. Section 38-505(A).

b. Public Officials must consider ethical principles before accepting personal gifts specifically related to entertainment and sports or athletic activities. This applies, regardless of whether the person giving the gift is compensated for lobbying the public official.

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Within four business days of receipt of the following gifts or favors in Peoria, or within two business days of returning to Peoria after receipt of a gift or favor while traveling outside of Peoria, Public Officials shall disclose in writing to the City Clerk all gifts, benefits, or favors received from people with a financial interest in business before the City, or which may come before the City, that:

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- (1) Relate to professional or collegiate sports, athletic, or entertainment activities or tickets, or
 - (2) Have a face value of more than the de minimis amount.
- c. In accordance with A.R.S. Section 41-1232.08 (B) and (C), Public Officials shall not accept an expenditure for entertainment from a person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the city's governing body.
- d. This section shall not apply to:
 - (1) Entertainment or food in connection with a special event such as an event or dinner to which the entire City Council or Board or Commission is invited. This exception shall apply when a copy of the invitation is filed with the City Clerk in advance of the event.
 - (2) Entertainment that is incidental to a speaking engagement.
- e. Gifts having a value greater than \$50.00 that are donated to the City or a bona fide charity also do not need to be reported.
- f. This section does not apply to gifts exceeding \$50.00 in value that are intended for the City government as a whole rather than as a personal gift to a Public Official. These items are City of Peoria property. Public Officials who receive a gift on behalf of the City exceeding \$50.00 in value shall promptly turn the gift over to the City Manager for public display or other appropriate handling.
- ga. No Public Official shall directly or indirectly solicit any gift, or accept or receive any gift whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, beyond a de minimis value. No Public Officials shall receive any item or gift under circumstances in which a reasonable person would believe that the gift was intended to influence their performance of official duties or was intended as a reward for any official action on their part. Legitimate political contributions to public officials shall not be considered as gifts under the provisions of this paragraph.
- hb. Public Officials shall not allow family, social, or other relationships to unduly influence their conduct or judgment and shall not lend the prestige of their official position to advance the private interests of others.

Councilmember Dave Pearson – March 6, 2012 with edits as of May 8, 2012

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- ie. Public Officials shall not engage in nepotism. To this end, no relative of a sitting Councilmember may be hired by the City, and no relative of a sitting advisory board member may be hired in the City department for which that advisory board member provides guidance.
4. Public Officials shall perform the duties of their position diligently, as follows:
- a. Public Officials should attend their official meetings and be adequately prepared for discussion of meeting agenda items while striving for competence in those topics.
 - b. Public Officials have a responsibility to support good government by every available means, to continue to inform and educate citizens about the affairs and process of Peoria city government.
 - c. Public Officials should respond quickly and appropriately to citizens' concerns and treat all citizens with respect.
 - d. Public Officials shall maintain the dignity appropriate to the office.
 - e. Public Officials shall inform themselves concerning campaign finance, conflict of interest, and other applicable laws and comply with the provisions of such laws.
 - f. Public Officials shall conduct themselves in a manner that promotes public confidence in the integrity of their official position and of the Peoria city government.
 - g. Public Officials shall pursue policy goals they believe to be in the best interests of their constituents and the community as a whole, within the parameters of orderly decision-making, the rules of the Peoria City Council and open government.
 - h. Public Officials shall uphold the maintenance of order and decorum in proceedings at public meetings.
 - i. Public officials shall accord to all persons who are legally interested in a proceeding before a public body the right to be heard according to law.
 - ~~j. Public Officials, candidates for any office or cause and supporters of candidates or causes shall all refrain from circulating petitions during a City meeting and refrain from soliciting City employees to support their specific cause.~~
5. Public Officials shall conduct the responsibilities of their position in an open and public manner, as follows:

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a. No Public Official shall use information gained in the course of or by reason of their official position with the city for purposes of advancing:

1) Their financial or personal benefit or the benefit of a member of their immediate family; or

2) The benefit of a business entity in which they or their immediate family member has an interest.

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~~b. Public Officials shall not disclose or use, without appropriate authorization, any information that is acquired by the Public Officials in the course of their prescribed duties and that is declared confidential by law.~~

~~cb. Public Officials should be aware of the content and spirit of the Arizona Open Meeting Law and conduct the responsibilities of their office consistent with the content and spirit of that law. Public Officials will conduct themselves in a way that maintains public confidence in the integrity and fairness of their individual activities and of city government as a whole.~~

6. Public Officials shall conduct their responsibilities without discrimination and harassment, as follows:

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a. Public Officials shall conduct business in a manner that is free from illegal discrimination on the basis of age, sex, color, race, disability, national origin, or religious affiliation, and any other protected classes, both within the City organization and in their relationships with their constituencies.

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b. Public Officials should ~~create an environment within the City organization and in their relationships with their constituencies~~ conduct themselves in a manner that is productive and free from intimidation, hostility or other adversity. Harassment of any sort – verbal, physical, visual – including intentional and unwarranted actions that would constitute sexual harassment ~~were they to occur in an employment relationship~~, by any Public Official, is prohibited.

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7. ~~Public Officials shall not engage in political campaigning activities, as follows:~~

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a. Public Officials shall not engage in ~~political campaigning~~ electioneering at City meetings or within city buildings. They shall also not use public resources for ~~political campaigning~~ electioneering.

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~~For example, candidates or supporters of candidates shall refrain from circulating petitions during a City meeting and refrain from soliciting City employees to support their specific cause.~~

~~b. Public Officials are free to express their opinions about the public issues on the agenda before them, but they must not make campaign speeches at council or board meetings touting their, or another's, candidacy, nor may they urge residents to vote for them or another, through words, signs, buttons or other means, during duly noticed meetings of the City Council or its citizen advisory boards.~~

8. ~~Public Officials shall make appropriate use of City facilities, resources, and expenses, as follows:~~

a. ~~Expense Reports and Travel~~

~~When traveling on City business, Public Officials shall conduct themselves professionally as representatives of the City of Peoria. Travel guidelines for officials are outlined in Council Policy 2-1. Public Officials are entitled to be reimbursed for actual and necessary expenses during travel. Expenses must be documented completely and accurately. Public Officials should contact the appropriate City staff for assistance in travel plans and expense reports.~~

b. ~~Use of City Facilities and Resources~~

~~Software Management – Public Officials shall not use City equipment or City facilities for private purposes, except to the extent that they are available to the public. A.R.S. §13-1802.~~

~~Public Officials shall not make, use, accept or install illegal copies of computer software, documentation, or templates. The City conducts periodic audits to ensure compliance with City policies on software installed on City-owned computers.~~

~~The legality of software is ideally established by possession or accountability of the following five items: the original software diskettes, the license, the original manuals, documented evidence of purchase, or copy of the completed product registration.~~

~~Electronic Mail - City-assigned electronic mail accounts shall be used only for City business or for minor personal use such as setting up medical appointments or communicating occasionally with one's family in a way that does not interfere with City business.~~

Councilmember Dave Pearson – March 6, 2012 with edits as of May 8, 2012

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City-assigned electronic mail accounts may not be used for personal business or for any campaign purpose.

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All City-assigned electronic mail is considered official City business and must be retained in accordance with the City's records management program. In general, electronic mail communications are public records and subject to disclosure under the public records law in A.R.S. § 39-101 et. seq.

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c. Use of Staff

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Under the council-manager form of government, the City Council appoints a City Manager, who directs the day-to-day operations of all employees. Public Officials should be sensitive to the role of the City Manager and City staff.

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~~Councilmembers~~ Public Officials shall work through the City Manager or the City Manager's staff. ~~Councilmembers~~ Public Officials may ask other staff members about the status of a matter and may ask for information, but ~~Councilmembers~~ Public Officials shall not expressly or implicitly give orders or direction to staff, except through their participation on the City Council or board or commission. They shall not try privately to influence the decisions or recommendations of staff members, but they may share information with staff. ~~Council and board members~~ Public Officials shall not intervene directly with staff on behalf of a particular constituent or organization on a pending matter, but shall participate with council or board colleagues in discussing and deciding policy matters for staff to carry out.

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~~Appointed board members~~ Public Officials serving on advisory boards shall work through the staff liaisons of their board.

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9. Enforcement

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It is the intent of the City Council to educate, and where necessary, investigate and discipline Public Officials who violate this Ethics Policy. Investigations and discipline shall be conducted in accordance with the "Rules of Procedure for City Council Ethics Proceedings" as adopted by the City Council. This Code does not prevent informal resolution of minor infractions, such as by immediate corrective action of the possible misconduct. infraction.

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Prepared by Councilmember Dave Pearson – March 6, with approved changes from March 15 and April 10, 2012, plus edits from May 8 subcommittee and staff comments

 <p style="text-align: center;">CITY COUNCIL POLICY</p>	<p style="text-align: right;">CP _ - _ <i>[ASSIGNED BY CMO]</i></p> <p>Category: <i>[One of pre-existing list]</i></p>
	<p>Department: <i>[Originating or responsible department]</i></p>
<p>TITLE: <i>Ethics Code for Public Officials (City Council and Board and Commission members)</i></p>	<p>Approved: <i>[Date of Council Meeting]</i></p>

A. Purpose

Peoria City Government operates best when employees and elected and appointed officials are independent, impartial, and responsible to the people of Peoria. Government decisions and policy should be made publicly and no public office shall be used for personal gain. Employees and elected and appointed officials should aspire at all times to conduct themselves in a way that ensures the greatest possible public confidence in their roles as public servants.

Recognizing that a separate employee code of ethics is promulgated and enforced by the City Manager, the purpose of this policy statement is to set forth guidelines for ethical standards for the City Council and board and commission members.

It is expected that all Public Officials read and understand this policy. Public Officials must respect and honor the positions of public trust which they hold and strive to maintain and enhance confidence in Peoria City Government.

Public Officials are encouraged to seek the advice of the city attorney in matters regarding this Code of Ethics.

B. Definitions

1. "Public Officials" shall mean members of the City Council and members of City Boards and Commissions.
2. "Substantial interest" shall mean any pecuniary or proprietary interest, either direct or indirect, other than a remote interest as defined by state law.

3. "Immediate family" shall mean individuals who are married to each other and any children of those individuals.
4. "De minimis" shall mean an item with a value so minor as to be negligible, trivial or trifling. Often used to describe exemptions in government rules and regulations. For purposes of Public Officials, this value is set at \$50.00. This means items with a value up to \$50.00 can be accepted on an occasional basis by an individual Public Official when offered as a gesture of kindness or appreciation.
5. "Confidential information" shall mean information acquired in an Executive Session or that has specifically been identified by the city attorney as privileged in accordance with Arizona Revised Statutes
6. "Electioneering" shall mean a demonstration of express support for or opposition to a candidate who appears on the ballot in that election, a ballot question that appears on the ballot in that election or a political party with one or more candidates who appear on the ballot in that election, and includes any use of a candidate's or political party's name or a ballot measure's name or numeric designation and any verbal expressions of opposition or support.
7. "Electioneering materials" shall mean written or printed material or items, including articles of clothing, that express support for or opposition to a candidate who appears on the ballot in that election, a ballot question that appears on the ballot in that election or a political party with one or more candidates who appear on the ballot in that election.

C. Standards

1. Public Officials shall comply with this ethics code, the U.S. Constitution, Arizona Constitution, federal and state statutes, city charter, city code, and council policies. They should be guided by the spirit as well as the letter of the law in whatever they do.
2. Public Officials shall uphold the integrity and independence of their positions, as follows:
 - a. No Public Official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
 - b. No Public Official shall use their official position or the city's facilities for their personal gain or for the personal gain of any individual which would not be available to any other member of the public in the same or similar circumstances.

- c. If a Public Official or their immediately family has a substantial interest in any contract, sale, purchase or service, the Public Official shall make known that interest in the official records of the City and shall refrain from voting upon or otherwise participating in any manner in such contract, sale or purchase.
 - d. If a Public Official or their immediate family has a substantial interest in any decision of the City, the Public Official shall make known such interest in the official records of the City and shall refrain from participating in any manner in such decision.
 - e. No Public Official shall appear before or represent any private person, group or interest before the City Council or any board or commission of the city. The provisions of this paragraph are not intended to prohibit a Public Official from speaking before neighborhood groups and other nonprofit organizations.
3. Public Officials shall avoid impropriety and the appearance of impropriety in their official and personal actions, as follows:

- a. Arizona law prohibits Public Officials from receiving anything of value or any compensation other than their normal salary for any service rendered in connection with that person's duties with the City. A.R.S. Section 38-505(A).
- b. Public Officials must consider ethical principles before accepting personal gifts specifically related to entertainment and sports or athletic activities. This applies regardless of whether the person giving the gift is compensated for lobbying the public official.

Within four business days of receipt of the following gifts or favors in Peoria, or within two business days of returning to Peoria after receipt of a gift or favor while traveling outside of Peoria, Public Officials shall disclose in writing to the City Clerk all gifts, benefits, or favors received from people with a financial interest in business before the City, or which may come before the City, that:

- (1) Relate to professional or collegiate sports, athletic, or entertainment activities or tickets, or
- (2) Have a face value of more than the de minimis amount.

- c. In accordance with A.R.S. Section 41-1232.08 (B) and (C), Public Officials shall not accept an expenditure for entertainment from a person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the city's governing body.

d. This section shall not apply to:

(1) Entertainment or food in connection with a special event such as an event or dinner to which the entire City Council or Board or Commission is invited. This exception shall apply when a copy of the invitation is filed with the City Clerk in advance of the event.

(2) Entertainment that is incidental to a speaking engagement.

- e. Gifts having a value greater than \$50.00 that are donated to the City or a bona fide charity also do not need to be reported.
- f. This section does not apply to gifts exceeding \$50.00 in value that are intended for the City government as a whole rather than as a personal gift to a Public Official. These items are City of Peoria property. Public Officials who receive a gift on behalf of the City exceeding \$50.00 in value shall promptly turn the gift over to the City Manager for public display or other appropriate handling.
- g. No Public Official shall directly or indirectly solicit any gift, or accept or receive any gift whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, beyond a de minimis value. No Public Officials shall receive any item or gift under circumstances in which a reasonable person would believe that the gift was intended to influence their performance of official duties or was intended as a reward for any official action on their part. Legitimate political contributions to public officials shall not be considered as gifts under the provisions of this paragraph.
 - h. Public Officials shall not allow family, social, or other relationships to unduly influence their conduct or judgment and shall not lend the prestige of their official position to advance the private interests of others.
 - i. Public Officials shall not engage in nepotism. To this end, no relative of a sitting Councilmember may be hired by the City, and no relative of a sitting advisory board member may be hired in the City department for which that advisory board member provides guidance.

- 4. Public Officials shall perform the duties of their position diligently, as follows:
 - a. Public Officials should attend their official meetings and be adequately prepared for discussion of meeting agenda items while striving for competence in those topics.

- b. Public Officials have a responsibility to support good government by every available means, to continue to inform and educate citizens about the affairs and process of Peoria city government.
 - c. Public Officials should respond quickly and appropriately to citizens' concerns and treat all citizens with respect.
 - d. Public Officials shall maintain the dignity appropriate to the office.
 - e. Public Officials shall inform themselves concerning campaign finance, conflict of interest, and other applicable laws and comply with the provisions of such laws.
 - f. Public Officials shall conduct themselves in a manner that promotes public confidence in the integrity of their official position and of the Peoria city government.
 - g. Public Officials shall pursue policy goals they believe to be in the best interests of their constituents and the community as a whole, within the parameters of orderly decision-making, the rules of the Peoria City Council and open government.
 - h. Public Officials shall uphold the maintenance of order and decorum in proceedings at public meetings.
 - i. Public officials shall accord to all persons who are legally interested in a proceeding before a public body the right to be heard according to law.
 - j. Public Officials, candidates for any office or cause and supporters of candidates or causes shall all refrain from circulating petitions during a City meeting and refrain from soliciting City employees to support their specific cause.
5. Public Officials shall conduct the responsibilities of their position in an open and public manner, as follows:
- a. No Public Official shall use information gained in the course of or by reason of their official position with the city for purposes of advancing:
 - 1) Their financial or personal benefit or the benefit of a member of their immediate family; or
 - 2) The benefit of a business entity in which they or their immediate family member has an interest.
 - b. Public Officials shall not disclose or use, without appropriate authorization, any information that is acquired by the Public Officials in the course of their prescribed duties and that is declared confidential by law.

- c. Public Officials should be aware of the content and spirit of the Arizona Open Meeting Law and conduct the responsibilities of their office consistent with the content and spirit of that law.
6. Public Officials shall conduct their responsibilities without discrimination and harassment, as follows:
 - a. Public Officials shall conduct business in a manner that is free from illegal discrimination on the basis of age, sex, color, race, disability, national origin, or religious affiliation, and any other protected classes, both within the City organization and in their relationships with their constituencies.
 - b. Public Officials should conduct themselves in a manner that is productive and free from intimidation, hostility or other adversity. Harassment of any sort – verbal, physical, visual – including intentional and unwarranted actions that would constitute sexual harassment, by any Public Official, is prohibited.
7. Public Officials shall not engage in electioneering at City meetings or within city buildings. They shall also not use public resources for electioneering.
8. Public Officials shall make appropriate use of City facilities, resources, and expenses, as follows:
 - a. Expense Reports and Travel

When traveling on City business, Public Officials shall conduct themselves professionally as representatives of the City of Peoria. Travel guidelines are outlined in Council Policy 2-1. Public Officials are entitled to be reimbursed for actual and necessary expenses during travel. Expenses must be documented completely and accurately. Public Officials should contact the appropriate City staff for assistance in travel plans and expense reports.
 - b. Use of City Facilities and Resources

Software Management – Public Officials shall not use City equipment or City facilities for private purposes, except to the extent that they are available to the public. A.R.S. §13-1802.

Public Officials shall not make, use, accept or install illegal copies of computer software, documentation, or templates. The City

conducts periodic audits to ensure compliance with City policies on software installed on City-owned computers.

The legality of software is ideally established by possession or accountability of the following five items: the original software diskettes, the license, the original manuals, documented evidence of purchase, or copy of the completed product registration.

Electronic Mail - City-assigned electronic mail accounts shall be used only for City business or for minor personal use such as setting up medical appointments or communicating occasionally with one's family in a way that does not interfere with City business. City-assigned electronic mail accounts may not be used for personal business or for any campaign purpose.

All City-assigned electronic mail is considered official City business and must be retained in accordance with the City's records management program. In general, electronic mail communications are public records and subject to disclosure under the public records law in A.R.S. § 39-101 et. seq.

c. Use of Staff

Under the council-manager form of government, the City Council appoints a City Manager, who directs the day-to-day operations of all employees. Public Officials should be sensitive to the role of the City Manager and City staff.

Public Officials shall work through the City Manager or the City Manager's staff. Public Officials may ask other staff members about the status of a matter and may ask for information, but Public Officials shall not expressly or implicitly give orders or direction to staff, except through their participation on the City Council or board or commission. They shall not try privately to influence the decisions or recommendations of staff members, but they may share information with staff. Public Officials shall not intervene directly with staff on behalf of a particular constituent or organization on a pending matter, but shall participate with council or board colleagues in discussing and deciding policy matters for staff to carry out.

Public Officials serving on advisory boards shall work through the staff liaisons of their board.

9. Enforcement

Category: _

Title: _

CP _-

Page 8 of 8

It is the intent of the City Council to educate, and where necessary, investigate and discipline Public Officials who violate this Ethics Policy. Investigations and discipline shall be conducted in accordance with the “Rules of Procedure for City Council Ethics Proceedings” as adopted by the City Council. This Code does not prevent informal resolution of minor infractions, such as by immediate corrective action of the infraction.

CITY OF PEORIA MEMORANDUM

TO: Policy & Appointments Subcommittee
FROM: Susan K. Thorpe, Deputy City Manager
DATE: March 7, 2012
SUBJECT: Article related to Council Code of Ethics

Below, for your information and reference, is an article from Western City magazine related to elected officials ethical standards.

The “Front Page” Test: An Easy Ethics Standard



Question

As a public agency attorney, I have conversations with clients about how ethics laws apply in a given situation. Sometimes a proposed course of action may be allowed under the law and yet it's a really bad idea in terms of how it is likely to be perceived by the community. At other times, a public official will consult me on issues that are more ethical than legal.

It would be helpful to have a resource I can share with clients that might help them analyze such situations. Can you help?

Answer

Many resources are available to help local officials sort through ethics issues. For example, the website “good reads” (www.goodreads.com) lists 2,561 books on ethics. The Institute for Local Government (ILG) also offers tips on how public officials can use values-based analysis to work through ethical dilemmas in *Understanding the Basics of Public Service Ethics: Promoting Personal and Organizational Ethics* (www.ca-ilg.org/ppoe, pages 3–11).

Of course, not everyone has time or the inclination to read and mull the application of even one book on ethical decision-making or even the eight pages of ideas on values-based decision-making in ILG's ethics booklet.

Under such circumstances, some local officials use what's called the "front page" test. That test requires asking yourself: How would I feel if the course of action I am considering were reported on the front page of the local newspaper or blog? If you would be at all uncomfortable, the best course of action is *not* to do it — end of analysis.

The Whys of the Front Page Test

The front page test is analytically useful because it encourages a public official to think about how his or her actions might look to the outside world. People tend to rationalize their actions, usually by starting their analysis with what they want to do and then reasoning backward to justify that course of action. It's a time-honored temptation. As founding father Benjamin Franklin wryly noted, "So convenient a thing it is to be a reasonable creature, since it enables one to find or make a reason for everything one has a mind to do." In a similar vein, French philosopher Jean-Jacques Rousseau cautioned that "Nature never deceives us; it is always we who deceive ourselves."

Of course, as a public servant, your actions and words are often subject to intense public scrutiny. Thus, a distinct possibility exists that the media and the public (particularly your critics) will scrutinize your actions.

However, even if the likelihood of scrutiny is slim or non-existent, the front page test is still a good one to use. As legendary basketball coach John Wooden observed, "The true test of a man's character is what he does when no one is watching."

Avoiding Self-Deception

Whether you are being watched or not, thinking about how the average constituent on the street will perceive your actions is a useful analysis. The question is whether that constituent will think you are doing the right thing as a public official. This doesn't mean being a slave to public opinion; it may still be important to stand on principle.

When analyzing how a given course of action will look, count on the fact that most, if not virtually all, members of the community will lack some or all of the relevant information about the public official's actions. In fact, there's a strong likelihood the information the community receives — particularly if the information comes from a source other than the public official in question, such as the media — will be critical, incomplete, skewed and perhaps even inaccurate. For a course of action to comfortably pass the front page test, it needs to survive the community's scrutiny even with incomplete or skewed information.

What are some of the elements that will factor into the community's judgment? If the action involves spending the agency's money, community members are likely to ask the question whether they feel that such an expenditure benefits them or not. A fair bet is the analysis will not include consideration of whether the official deserved whatever special benefit is in question. For better or worse, it is safest for public servants to assume that the prevailing community sentiment is that public officials don't deserve special benefits. The American democratic tradition tends to reject actions that appear to set apart public officials from those they serve.

For other actions that tend to fare poorly in the court of public opinion, see "Situations Likely to Fail the Front Page Test."

As part of the front page test, a good question to ask is whether you can give your harshest critic a straightforward explanation of why this was the right thing to do. In many cases, that explanation should include an analysis of how the action in question genuinely benefits and serves the interests of the community and how the action is part of a fair and transparent decision-making process.

Compliance With the Law Isn't Enough

One of the explanations frequently offered by local officials under scrutiny is that what they did is legal or they received advice from agency counsel that it wasn't illegal. This explanation answers the wrong question. Not being against the law generally just means that one won't get jailed or fined for doing something. The question is whether the official is doing the right thing. This gets to the issue of what the public will conclude: that the official did what one ought to do in a given situation.

American critic and author Alfred Kazin once offered the sage advice that if you can't explain what you're doing in simple English, you're probably doing something wrong. Being close to the line in terms of what's legal or relying on what might be considered loopholes or technicalities usually can be difficult to explain in simple language.

Professing ignorance of the law is not likely to fly as an explanation either. Part of what most public officials offer to the public in campaigning for office is knowledge, and that's also a big part of municipal staff's brand.

Conclusion

There will always be critics and watchdogs. The task for the savvy and ethical public official is to make decisions in a way that maximizes the likelihood that the community will conclude the official is trying to do the right thing. That's what the public expects from its public servants.

Situations Likely to Fail the Front Page Test

When one reads news accounts that are critical of a public official's actions, certain themes emerge.

Graft. When a public official appears to be receiving extra financial or other benefits as a result of his or her public service, the perception can be that the official is in public service to feather his or her own nest instead of working for the benefit of the community.

Cronyism/Nepotism. When friends or family are involved in some way in one's decisions as a public official, the perception can be that friends and family are receiving preferential treatment and decisions are based on favoritism as opposed to fair consideration of the merits.

Misuse of Public Resources. Public officials make decisions on how taxpayer and other public resources are used. Such uses must benefit the public, as opposed to the public official or special interests.

Other Forms of Special Treatment. When it appears that public officials (or their friends) are not subject to the same rules and burdens as everyone else, the public questions the fairness of the situation.

Quid Pro Quo. If it appears that a decision may have been the result of an “if you do this for me, I will do that for you” arrangement, the public also questions whether the decision is based on the public’s interests (for example, if a campaign contribution influenced a decision).

Secrecy. If decisions are not made in a way that appears open to public scrutiny, the default assumption is that there is something to hide.

On Leadership and Sacrifice

Basketball great Kareem Abdul-Jabbar observed that a team will always appreciate a great individual if he’s willing to sacrifice for the group. Public service is all about both the interests of the group and sacrifice: sacrifice of one’s time, sacrifice of one’s privacy and the sacrifice of not being able to do things that those who are not in public service can do (for example, taking advantage of opportunities for financial gain).

Sometimes the sacrifice involves ego in favor of humility — not insisting on what you perceive as the best course of action so that a larger segment of the community buys into and supports the course of action.

This article appears in the February 2012 issue of Western City

**MAYOR AND COUNCIL
SUBCOMMITTEE AGENDA ITEM
REQUEST FORM**

DATE:

TO: Carl Swenson, City Manager

FROM: Dave Pearson

SUBJECT: Boards & Commissions appointment process

1. Provide a description of the agenda item.

Discuss the current process for selection of boards and commission members and possibly request the city manager via the city clerk to develop a more streamlined process that will speed up selections while reducing the work load on staff.

2. Explain the policy issue related to the agenda item.

Selection policy for boards and commissions.

City Manager's Office Use:

Date of receipt: *10/19/11*

Policy issue: Yes No If denied, explain _____

Subcommittee assignment: *10/24/11*

Transferred to subcommittee staff liaison on:

Subcommittee agenda date: *11/07/11, 12/13/11*

Subcommittee action:

- No further action
- Study session referral
- Regular agenda Action
- City Manager Action

*- Staff directed to
update B+C
application*

*Wanda Nelson, City Clerk
12/15/11*

Tracking # *006*

Policy + Appointments

Board and Commissions With Residency Exceptions

1. Economic Development Authority
2. Building Board of Appeals
 - a. Fire Protection Engineer Member
 - b. Industrial Safety Professional Member
3. Historic Preservation Commission
 - a. Two Members with Professional Background in One of the Following Areas: Architecture, History, Architectural History, Planning, or Archeology
4. Judicial Selection Advisory Board
5. Employee Benefits Trust Board
 - a. Cannot Find Code Reference to Residency Exemption
6. Public Defender Contract Review Committee
 - a. Maricopa County Public Defender's Office Member
 - b. President of the Western Maricopa County Bar Association or Recommended by the President Member
 - c. Active Member in good standing of the State Bar of Arizona
7. Public Safety Retirement System Board – Police
 - a. Two Police Officer Members (Elected Position)
8. Public Safety Retirement System Board – Fire
 - a. Two Fire Department Members (Elected Position)
9. Sister Cities Board
 - a. All Members
10. Veterans Memorial Board
 - a. All Members

Board and Commissions With Residency Exceptions

Sec. 2-156. Boards and commissions

- (a) All members of boards and commissions of the city shall meet the following minimum qualifications upon their appointment to any board or commission.
- (1) Must be at least eighteen (18) years of age or older.
 - (2) Resident of the City of Peoria.
 - (3) Qualified elector of the City of Peoria.
 - (4) Notwithstanding paragraphs (2) and (3) of subsection (a), the following board or commission members are not required to be residents or qualified electors of the City, but must be residents and qualified electors of Maricopa County:
 - (A) Members of the Economic Development Advisory Board; and
 - (B) The fire protection engineer member and industrial safety professional member of the Building Board of Appeals.
 - (C) As provided in Chapter 15 of this Code pertaining to the Judicial Selection Advisory Board.

Sec. 2-121 Historic Preservation Commission

- (b) All members shall have a known interest in historic preservation, planning or architectural development within the City of Peoria. At least two members shall have a professional background in the areas of architecture, history, architectural history, planning or archeology. For the two members who have a professional background in the areas of architecture, history, architectural history, planning or archeology, notwithstanding any other provision of this code, such members need not be residents of the City of Peoria, Arizona.

Sec. 15-8. Judicial Selection Advisory Board

- (a) There is hereby created a Judicial Selection Advisory Board to be composed of five members, consisting of the following:
- (1) A Judge of the Arizona Superior Court-Maricopa County as designated by the Presiding Judge of that Court;
 - (2) Two active members of the State Bar of Arizona, one of who must be a resident of the City of Peoria and who shall be appointed by the Mayor from among nominees recommended by the State Bar's Board of Governors;
 - (3) Two public members who are nominated by the Mayor and who are residents of the City of Peoria. None of the public members or a member of their immediate family shall be an employee or elected official of the City of Peoria. Immediate family is defined as Spouse, Parent, Child, Sibling, Step Parent, Step Child, Grand Parent, Grand child.

Board and Commissions With Residency Exceptions

Sec. 2-74. Public Defender Contract Review Committee.

- (a) There is established the Public Defender Contract Review Committee. The committee shall consist of three members appointed by the mayor and confirmed by the council. The members of the committee shall consist of:
- (1) A member of the Maricopa County Public Defender's Office.
 - (2) The President of the Western Maricopa County Bar Association or a member of that association recommended by the President.
 - (3) One private person who shall be an active member in good standing of the State Bar of Arizona.
 - (4) Two private citizens who are residents of the City.

Sec. 19-43. Public Safety Retirement System Board; Police and Fire Boards

There shall be a local Public Safety Retirement System Board for Fire Department employees and for Peace Officer employees who are members of the Public Safety Retirement System. Each board shall have the following membership:

- (a) The Mayor or designee of the Mayor approved by resolution of the City Council for the term concurrent with that of the Mayor. Should the Mayor fail to designate an appointee for a board, the Mayor shall be deemed to be the appointee.
- (b) Two citizens of the City, who shall serve on both the local boards for fire and peace officer employees who, are members of the Public Safety Retirement System.
- (c) There shall be two peace officer members and two fire department members of their respective boards who shall serve a term of four years and shall be elected by secret ballot in accordance with the provisions of this Chapter.

Sec. 2-132. Sister Cities Board

Notwithstanding Section 2-132 of this Code, members of the Sister Cities Board are not required to be residents of the City.

Sec. 2-136. Veteran's Memorial Board

Notwithstanding Section 2-156 of this code, members of the Veteran's Memorial Board are not required to be residents of the City.