

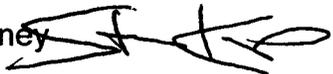
**CITY OF PEORIA, ARIZONA  
COUNCIL COMMUNICATIONS**

CC: 20R  
Amend No. \_\_\_\_\_

Date Prepared: March 24, 2008

Council Meeting Date: April 1, 2008

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**TO:** Honorable Mayor and Council  
**FROM:** Stephen M. Kemp, City Attorney   
**SUBJECT:** Charter Amendment-Vacancies in the Office of the Mayor and City Council

**RECOMMENDATION:** It is my recommendation should the Mayor and Council desire to change the process for filling Vacancies in the Office of Mayor and the City Council that the attached Resolution placing a charter amendment on the ballot proposing to amend the Peoria City Charter

**SUMMARY:**

Attached is a Resolution placing a proposition before the voters of the City of Peoria at the September 2, 2008 regular election. This resolution pertains to an amendment of the City Charter, Article II, Section 13 pertaining to vacancies in the offices of Mayor and Council.

At the prior City Council study session, the council consensus was that a provision should be brought back for formal discussion that modified the process for filling vacancies in the office of Mayor. Current process is that the Vice Mayor automatically succeeds to the office of Mayor.

The proposed amendment is modeled after approaches used in Tempe, Phoenix and Scottsdale. Under this amendment if the office of Mayor became vacant 375 days or less before the date of the next regular election for Mayor, the Council would appoint a new Mayor from among its members. Should the Council deadlock, the Vice Mayor

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**CITY CLERK USE ONLY:**

- Consent Agenda
- Carry Over to Date: \_\_\_\_\_
- Approved
- Unfinished Business (Date heard previous: \_\_\_\_\_)
- New Business

ORD. # \_\_\_\_\_ RES. # 04-53  
LCON# \_\_\_\_\_ LIC. # \_\_\_\_\_  
Action Date: \_\_\_\_\_

would act as Mayor until a new Mayor is appointed or elected. If the vacancy occurred more than 375 days prior to the date of the next regular election, the vacancy in the office of Mayor would be filled by special election.

The proposed language pertaining to the position of Mayor also follows the provisions pertaining to Council that if the office is vacant and a regular election is held, the candidate elected may immediately take office, rather than waiting to the normal date of taking office.

Therefore it is my recommendation that if the Mayor and Council desire to address this issue that you adopt the attached Resolution placing the Charter Amendment on the September 2, 2008 regular election ballot.

**ATTACHMENT:**

1. Resolution

RESOLUTION NO. 08-53

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA PROPOSING AN AMENDMENT TO THE CITY OF PEORIA ARIZONA, CITY CHARTER, AMENDING ARTICLE II, SECTION 13 PERTAINING TO VACANCIES IN THE OFFICE OF MAYOR AND ADDING SECTION 13.1 PERTAINING TO VACANCIES IN THE OFFICE OF COUNCIL

TEXT OF PROPOSED AMENDMENT

IT IS RESOLVED by the Mayor and Council of the City of Peoria:

1. The following amendment of Article II, Section 13 is proposed to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of Mayor after completion of the official canvass in accordance with Article X, Section 2 of the Peoria City Charter.

2. The Charter of the City of Peoria, Arizona is amended by amending Article II, Section 13 pertaining to vacancies in the Office of Mayor and to read as follows:

Sec. 13. Vacancies in the Office of Mayor

A. If a vacancy occurs in the office of Mayor Three Hundred and Seventy Five (375) days or less prior to the date of the next regular election for Mayor, that being the primary election, the council shall within thirty (30) days following the vacancy appoint by majority vote a member of the council to serve the remainder of the unexpired term. If more than two candidates are nominated and no candidate receives a majority of the votes of council members present, then a second ballot shall be held and the two candidates having received the most votes deemed nominated and voted on by the mayor and council members present. If no candidate receives a majority vote of the council members present, the Vice Mayor shall act as Mayor until a Mayor is appointed in accordance with this Section.

B. If a vacancy occurs in the office of Mayor more than Three Hundred and Seventy Five (375) days prior to the date of the next regular election for

Mayor, the City Clerk shall schedule a special election to be held to fill the vacancy at the next available election date as provided by law. The election to fill the vacancy in the position of Mayor for the unexpired term shall be held in the same manner as other City Elections.

C. If a vacancy in the office of Mayor occurs after the canvass of a primary election or general election in which a candidate has been elected for the position of Mayor, the person elected for the position of Mayor shall be deemed to be appointed for the remainder of the term of the seat that has become vacant upon taking the oath of office. If no person has been elected at the primary election, the Council may elect to leave the seat vacant until the canvass of the general election and then the seat shall be filled in accordance with this paragraph.

D. A vacancy in the office of Mayor shall exist, except under the recall provisions of this charter, when the respective elected official fails to qualify within thirty (30) days after commencement of his term, dies, resigns, removes from the city, absents himself from the duties of his office without the consent of the council as provided in the charter, is convicted of intentionally violating any of the provisions of this charter, or of a felony, or is judicially declared an incapacitated person as defined by statute.

3. The Charter of the City of Peoria, Arizona is amended by amending Article II, by adding Section 13.1 pertaining to vacancies in the Office of Council and to read as follows:

Sec. 13.1. Vacancies in the office of mayer and council.

~~— A. In case of a vacancy in the office of the mayor, the vice mayor, should he be otherwise qualified, shall become mayor and continue in office until the expiration of the unexpired term. Should the vice mayor not be qualified because of age to assume the office of mayor, the council shall choose a mayor who is qualified from among its membership. Should no member of the council be qualified by age, a mayor shall be chosen to fill the unexpired term by special election.~~

A. If a vacancy occurs seven hundred and forty (740) days or more prior to the next regular election for the vacant position, there shall be a special election held to fill the unexpired portion of the term. For purposes of this Section, the next regular election is deemed to be the primary election. The special election shall be held subject to the following provisions:

(1) there shall be a period of ten (10) days from the date the vacancy occurs during which any person desiring to run for the vacant office must declare as a candidate for the office by filing a written statement declaring their intention to be a candidate with the city clerk.

(2) Upon expiration of the ten day period in subsection B. (1), the City

Clerk shall schedule a special election on the first available election date permitted by state law and this charter.

- (3) The procedures for nomination and election shall be the same as for regular council elections to the extent possible.
- (4) The council shall not less than twelve (12) days nor more than fifteen (15) days from the date any vacancy occurs appoint in the manner provided in paragraph C of this section, a person to fill the vacant office for a term ending the first business day after the canvass of votes is completed following the election of a candidate to fill the unexpired term of office.

B. In the case of a vacancy on the council which 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 vacancy shall be filled as follows:

- (1) A vacancy shall be filled by a qualified elector residing in the district in which the vacancy exists.
- (2) The first candidate receiving an affirmative majority of the votes of the mayor and council members present shall be selected to fill the vacancy.
- (3) The appointment shall be until their successor at the next regular election shall be elected and qualified.

C. In the case of a vacancy on the council which 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 vacancy shall be filled as follows:

- (1) A vacancy shall be filled by a qualified elector residing in the district in which the vacancy exists.
- (2) The first candidate receiving an affirmative majority of the votes of the mayor and council members present shall be selected to fill the vacancy. If more than two candidates are nominated and no candidate receives a majority of the votes of mayor and council members present, then a second ballot shall be held and the two candidates having received the most votes deemed nominated and voted on by the mayor and council members present.
- (3) The appointment shall be until their successor at the next regular election shall be elected and qualified.

D. If a vacancy in the office of council occurs after the canvass of a primary election or general election in which a candidate has been elected for the seat that has become vacant, the person elected for such vacant seat shall be deemed to be appointed for the remainder of the term of the seat that has become vacant upon taking the oath of office. If no person has been elected at the primary election, the Council may elect to leave the seat vacant until the canvass of the general election and then the seat shall be filled in accordance with this paragraph.

E. A vacancy in the office of council shall exist, except under the recall provisions of this charter, when the respective elected official fails to qualify within thirty (30) days after commencement of his term, dies, resigns, removes from the city, absents himself from the duties of his office without the consent of the council as provided in the charter, is convicted of intentionally violating any of the provisions of this charter, or of a felony, or is judicially declared an incapacitated person as defined by statute.

4. The proposed amendment approved by the Mayor and a majority of the members of the City Council and entered into the minutes shall be submitted by the Peoria City Clerk to the qualified electors of the City at the September 2, 2008 regular election as provided by Article X, Section 2 of the Peoria City Charter.

5. This Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria this 1<sup>st</sup> day of April, 2008 as follows:

Ayes: _____	Nays: _____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
Bob Barrett, Mayor

ATTEST:

\_\_\_\_\_  
Mary Jo Kief, City Clerk

APPROVED AS TO FORM:

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Stephen M. Kemp, City Attorney