MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
December 2, 2008

A **Regular Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 7:00 p.m.

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

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

Members Absent: None

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Susan Thorpe, Deputy City Manager; John F. Wenderski, Deputy City Manager; Steve Kemp, City Attorney; Mary Jo Kief, City Clerk; Stephen Bontrager, J.P. de la Montaigne, Andrew Granger, Bill Mattingly, Brent Mattingly, Grady Miller, Larry Ratcliff, Jeff Tyne, Glen Van Nimwegen, Brian Biesemeyer, Vicky Rios and Rhonda Simmons.

Audience: Approximately 100 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.

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.

AGENDA

CONSENT – New Business:

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

Having no requests to remove an item from the Consent Agenda for discussion, motion was made by Councilmember Hunt, seconded by Councilmember Leone, to approve the Consent Agenda as submitted. Upon vote, the motion carried unanimously.

1C Minutes

Special Meeting and Study Session - 4:00 p.m. October 21, 2008
Regular Meeting - 7:00 p.m. October 21, 2008

2C Appointments, Boards and Commissions

RESOLUTION 08-153

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, ACCEPTING THE RESIGNATION OF DORTHEA CROOKS AND APPOINTING MARLEEJEAN JOHNSON TO THE ARTS COMMISSION AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION 08-154

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING GIL VASQUEZ TO THE ARTS COMMISSION AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION 08-155

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, ACCEPTING THE RESIGNATION OF JODEY ELSNER AND APPOINTING SHELBY DUPLESSIS TO THE HISTORIC PRESERVATION COMMISSION AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION 08-156

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING NANCY GOLDEN TO THE PLANNING AND ZONING COMMISSION AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION 08-157

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, ACCEPTING THE RESIGNATION OF CHANEL KINGAN AND APPOINTING KELLY SHEA JASPER TO THE YOUTH ADVISORY BOARD AND ESTABLISHING THE TERM OF OFFICE.

Approved the recommendations from the Council Subcommittee on Boards and Commissions Appointments and adopt **RES. 08-153** through **RES. 08-157** pertaining to the following:

RES. 08-153 Appointed MarleeJean Johnson, as a regular member, to the Arts Commission for a partial term to expire June 2011;

RES. 08-154 Appointed Gil Vasquez, as a regular member, to the Arts Commission for a partial term to expire June 2010;

RES. 08-155 Appointed Shelby Duplessis, as a regular member, to the Historic Preservation Commission for a term to expire December 2012;

RES. 08-156 Appointed Nancy Golden, as a regular member, to the Planning and Zoning Commission for a term to expire December 2012; and

RES. 08-157 Appointed Kelly Shea Jasper, as a regular member, to the Youth Advisory Board for a partial term to expire June 2009; filling the vacancy created by the resignation of Chanel Kingan

3C **Property Acquisition, 67th Avenue/Thunderbird Road to the Arizona Canal Diversion Channel Improvement Project, 67th Avenue and Acoma Drive**

a) Approved an agreement for the purchase of 4,057 square feet of land in the amount of $20,285 plus closing costs for the 67th Avenue, Thunderbird Road to the Arizona Canal Diversion Channel Improvement Project (LCON19908); and
b) Approved a budget transfer within the project in the amount of $26,000 from the Street System Account to the Land Account.

4C **Intergovernmental Agreement, State of Arizona, Department of Transportation, Roadway Widening Improvements, 91st Avenue and Olive Avenue**

RESOLUTION NO. 08-158

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, ADOPTING A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS TO THE INTERSECTION OF 91ST AVENUE AND OLIVE AVENUE.

a) Adopted **Res. 08-158** approving an Intergovernmental Agreement with the State of Arizona, Department of Transportation for construction of the roadway widening improvements at 91st Avenue and Olive Avenue (LCON20008);
b) Approved a budget transfer within the project in the amount of $150,000 from the Land Acquisition Account to the Street System Account;
c) Authorized the use of reserves from the General Obligation (GO) Bond Fund; and

d) Approved a budget transfer in the amount of $531,552 from the General Fund Capital Projects Contingency Account to the 91st and Olive Intersection Improvement Project, GO Bond Fund, Street System Account.

5C Contract Amendment, Carter Burgess, Inc., Design Services, 67th Avenue Improvements, Thunderbird Road to the Arizona Canal Diversion Channel

Approved Contract Amendment No. 3 in the amount of $30,240 with Carter Burgess, Inc. for design services for improvements on 67th Avenue between Thunderbird Road and the Arizona Canal Diversion Channel Project (Project P-0901) (LCON11806C).

6C Contract Amendment, ELS Construction, Inc., Trail Underpass Construction, New River and Deer Valley Road

Approved Contract Amendment No. 1 in the amount of $277,000 with ELS Construction, Inc. for construction of the New River Trail underpass at Deer Valley Road (ACON29808P1A).

7C Contract Amendment, Kimley-Horn and Associates, Inc., Intersection Improvements, 91st Avenue and Olive Avenue

Approved Contract Amendment No. 3 in the amount of $136,018 with Kimley-Horn and Associates, Inc. for additional design and post-design services for the 91st Avenue and Olive Avenue Intersection Improvement Project (Project P-0315) (LCON07475C).

8C Authorize Expenditure, CS Construction, Inc., Traffic Signal and Intersection Improvements, 103rd Avenue and Northern Avenue

a) Authorized an expenditure in the amount of $690,502.83 to CS Construction, Inc. for construction of the 103rd Avenue and Northern Avenue traffic signal and intersection improvements utilizing existing Job Order Contract No. 4, Traffic Signals at Various Locations, between the Town of Gilbert and CS Construction (Project TS-0702);
b) Authorized the use of reserves from the Water Fund; and
c) Approved a budget transfer in the amount of $60,000 from the Water Fund Contingency Account to the Water Utility Account.

9C Authorize Expenditure, Diamond Ridge Development Corporation, Public Right-of-Way Block Wall Improvements, Various Locations

Authorized an expenditure in the amount of $57,700 to Diamond Ridge Development Corporation to stucco and paint the block walls at various public right-of-way locations, utilizing existing State Contract No. EPS060026-5-A1.

10C Authorize Expenditure, Felix Construction Company, Deer Valley Booster Station Modification, 83rd Avenue and Williams Road

Authorized an expenditure for a Guaranteed Maximum Price of $189,860.64 utilizing Job Order Contract P08-0047 with Felix Construction Company for design and construction services to modify and update the Deer Valley Booster Station site located on 83rd Avenue near Williams Road (ACON23908P7).

11C Maintenance Improvement District No. 1088, Vistancia Parcel A-4, Sunrise Point and Lone Mountain Road

RESOLUTION NO. 08-28A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO MAINTAIN LANDSCAPING INCLUDED WITHIN, NEAR AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE CITY OF PEORIA AS DESCRIBED HEREIN; ADOPTING PLANS FOR CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1088, VISTANCIA PARCEL A4, AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO AND DECLARING AN EMERGENCY.

RESOLUTION NO. 08-29A

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA DECLARING ITS INTENTION TO ORDER THE IMPROVEMENTS OF A CERTAIN AREA WITHIN THE CORPORATE LIMITS OF THE CITY AND CREATING AN IMPROVEMENT DISTRICT KNOWN AS THE CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1088, VISTANCIA PARCEL A4; PROVIDING THAT THE COST OF THE MAINTENANCE OF THE LANDSCAPING INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, SHALL BE ASSESSED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS AMENDED; AND DECLARING AN EMERGENCY.

Re-approved the Petition of Formation and adopted **RES. 08-28A** intention and ordering formation of proposed Maintenance Improvement District No. 1088, Vistancia Parcel A-4, located on Sunrise Point and Lone Mountain Road; and adopted **RES. 08-29A** ordering the work within the proposed Maintenance Improvement District.

12C Drainage Easement, Mack Arrowhead Phase II, Loop 101 and Thunderbird Road

Granted a drainage easement to Mack Arrowhead Phase II, in accordance with an agreement with the Mack Company for the acquisition of Lot 3 of the Mack subdivision (Project P-0505).

13C Amended Map of Dedication, Vistancia-Phase 1A, Jomax Road and the Agua Fria River

Approved the Amended Map of Dedication for Vistancia-Phase 1A, a Re-Plat of Vistancia-Phase 1A Map of Dedication, located north of Jomax Road and west of the Agua Fria River, subject to stipulations (Project R070120A).

14C Re-Plat, Casa de Sunrise, Lots 6 and 7, 79th Avenue and Pinnacle Peak Road

Approved the Re-Plat of Lots 6 and 7 of Casa de Sunrise, located at the southwest corner of 79th Avenue and Pinnacle Peak Road, subject to stipulations (Project R080078).

15C Re-Plat, Peoria Place, 83rd Avenue and Monroe Street

Approved the Re-Plat of Peoria Place, located at the southeast corner 83rd Avenue and Monroe Street, subject to stipulations (Project R080013A).

REGULAR AGENDA

NEW BUSINESS

16R Code Amendment, Chapter 25, Non-Potable Water Service

ORDINANCE NO. 08-35

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 25 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 25-1 PERTAINING TO WATER, DEFINITIONS; AMENDING SECTION 25-10 PERTAINING TO WATER; UNAUTHORIZED SHUTDOWN OF WATER MAINS; AMENDING SECTION 25-17 PERTAINING TO WATER; DISTRIBUTION MAIN EXTENSIONS; AMENDING SECTION 25-18 PERTAINING TO

WATER; MAIN EXTENSIONS, REQUIREMENTS; AMENDING SECTION 25-19 PERTAINING TO WATER; MAIN EXTENSIONS; SUBDIVISIONS, SINGLE LOTS, SUB LOT DEVELOPMENTS AND ALL OTHER DEVELOPMENTS; AMENDING SECTION 25-20 PERTAINING TO WATER; MINIMUM SUPPLY REQUIREMENTS; CONNECTION WITH WATER SYSTEM; AMENDING SECTION 25-30 PERTAINING TO WATER; RECLAIMED WATER USE; RATE; AMENDING SECTION 25-31 PERTAINING TO WATER; SYSTEM DEVELOPMENT FEE; ENACTING SECTION 25-68 PERTAINING TO WATER; NON-POTABLE WATER SERVICE; PROMULGATION AND ENFORCEMENT OF PROCEDURES AND REGULATIONS; ENACTING SECTION 25-69 PERTAINING TO WATER; NON-POTABLE WATER SERVICE; USE REQUIRED; ENACTING SECTION 25-70 PERTAINING TO WATER; NON-POTABLE WATER SERVICE; DISCONTINUANCE OF SERVICE; AMENDED BY ENACTING SECTION 25-71 PERTAINING TO WATER; NON-POTABLE WATER SERVICE; CUSTOMER RESPONSIBILITY; AMENDED BY ENACTING SECTION 25-72 PERTAINING TO WATER; NON-POTABLE WATER SERVICE; UNAUTHORIZED WORK; ENACTING SECTION 25-73 PERTAINING TO WATER; NON-POTABLE WATER USE; CUSTOMERS, SERVICE AGREEMENTS; REPEALING SECTION 25-75 PERTAINING TO WASTEWATER; ADMINISTRATION AND PERSONNEL IN ITS ENTIRETY; AMENDING SECTION 25-76 PERTAINING TO WASTEWATER; DEFINITIONS; ENACTING SECTION 25-77 PERTAINING TO WASTEWATER; CODE PART OF WATER SERVICE CONTRACT; REPEALING SECTION 25-78 PERTAINING TO ENFORCEMENT AND WAIVERS IN ITS ENTIRETY; ENACTING SECTION 25-78 PERTAINING TO WASTEWATER; APPLICABILITY TO EXISTING AGREEMENTS; ENACTING SECTION 25-79 PERTAINING TO WASTEWATER; LIABILITY OF CITY LIMITED; ENACTING SECTION 25-80 PERTAINING TO WASTEWATER; CUSTOMER RESPONSIBILITY; ENACTING SECTION 25-81 PERTAINING TO WASTEWATER; CUSTOMER NEGLIGENCE; AMENDING SECTION 25-82 PERTAINING TO WASTEWATER; INSPECTIONS; ENACTING SECTION 25-83 PERTAINING TO WASTEWATER; LIABILITY FOR DAMAGE; ENACTING SECTION 25-84 PERTAINING TO WASTEWATER; CONNECTIONS TO EXISTING SEWER MAINS; ENACTING SECTION 25-85 PERTAINING TO WASTEWATER; SEWER MAIN EXTENSIONS; ENACTING SECTION 25-85 PERTAINING TO WASTEWATER; SEWER MAIN EXTENSIONS; ENACTING SECTION 25-86

PERTAINING TO WASTEWATER; SEWER MAIN EXTENSION REQUIREMENTS; REPEALING SECTION 25-86 PERTAINING TO EXTENSION MAINS, DEFINITIONS IN ITS ENTIRETY; ENACTING SECTION 25-87 PERTAINING TO WASTEWATER; SEWER MAIN EXTENSIONS; SUBDIVISIONS, SINGLE LOTS, SUB LOT DEVELOPMENTS AND ALL OTHER DEVELOPMENTS; REPEALING SECTION 25-87 PERTAINING TO WASTEWATER; PUBLIC SEWER EXTENSIONS; APPROVAL BY THE ENGINEERING DEPARTMENT REQUIRED IN ITS ENTIRETY; ENACTING SECTION 25-88 PERTAINING TO WASTEWATER; MINIMUM REQUIREMENTS FOR CONNECTION TO SEWER SYSTEM; REPEALING SECTION 25-88 PERTAINING TO WASTEWATER; CONSTRUCTION AND OWNERSHIP OF PUBLIC SEWER LINES AND RELATED FACILITIES MAINTAINED BY THE ENGINEERING DEPARTMENT IN ITS ENTIRETY; ENACTING SECTION 25-89 PERTAINING TO WASTEWATER; EXTENSIONS, CONSTRUCTION, OWNERSHIP, AND MAINTENANCE; REPEALING SECTION 25-89 PERTAINING TO WASTEWATER; TRUNK SEWER EXTENSIONS IN ITS ENTIRETY; RENUMBERING EXISTING SECTION 25-79 PERTAINING TO WASTEWATER; SERVICE OUTSIDE CITY GENERALLY TO SECTION 25-90; REPEALING SECTION 25-90 PERTAINING TO WASTEWATER, TRUNK SEWER EXTENSIONS; BID PROCEDURES; COSTS; CONNECTIONS; ACCESS CONTROL IN ITS ENTIRETY; ENACTING SECTION 25-91 PERTAINING TO WASTEWATER; AGREEMENTS; REPAYMENT AGREEMENTS; REPEALING SECTION 25-91 PERTAINING TO WASTEWATER; REPAYMENTS; SEWER LINES; ENACTING SECTION 25-92 PERTAINING TO WASTEWATER; REPAYMENTS; SEWER LINES; REPEALING SECTION 25-92 PERTAINING TO SEWER EXTENSIONS PRIOR TO A MUNICIPAL IMPROVEMENT DISTRICT OR COMMUNITY FACILITIES DISTRICT IN ITS ENTIRETY; RENUMBERING AND AMENDING EXISTING SECTION 25-77 PERTAINING TO WASTEWATER; ENFORCEMENT RESPONSE PLAN TO SECTION 25-94; RENUMBERING EXISTING SECTION 25-80 PERTAINING TO WASTEWATER; TERMINATION OF SERVICE FOR VIOLATIONS; RESTORATION OF SERVICE TO SECTION 25-95; AMENDING SECTION 25-96 PERTAINING TO SEWER DEVELOPMENT FEE; RENUMBERING AND AMENDING EXISTING SECTION 25-81 PERTAINING TO INTERFERENCE WITH CITY EMPLOYEES; DIGGING UP STREETS WITHOUT PERMIT; TAMPERING WITH EQUIPMENT PROHIBITED TO SECTION 25-97;

RENUMBERING EXISTING SECTION 25-83 PERTAINING TO WASTEWATER; UNSANITARY DISPOSAL OF EXCREMENT PROHIBITED TO SECTION 25-98; AMENDING SECTION 25-99 PERTAINING TO WASTEWATER; AUTHORITY OF THE UTILITIES DIRECTOR; AUTHORITY OF UTILITIES DIRECTOR TO REQUIRE BEST MANAGEMENT PRACTICES; AMENDING SECTION 25-100 PERTAINING TO WASTEWATER; DISCHARGES; PROHIBITED SUBSTANCES; RENUMBERING EXISTING SECTION 25-84 PERTAINING TO WASTEWATER; TREATMENT OF POLLUTED WASTES REQUIRED TO SECTION 25-108; RENUMBERING EXISTING SECTION 25-85 PERTAINING TO WASTEWATER; PRIVATE SEWAGE DISPOSAL SYSTEMS TO SECTION 25-109 PERTAINING TO WASTEWATER; PRIVATE SEWAGE DISPOSAL SYSTEMS, CONNECTION WITH SEWER SYSTEM; AMENDING SECTION 25-135 PERTAINING TO PRETREATMENT, PURPOSES AND POLICY; AMENDING SECTION 25-142 PERTAINING TO ACCIDENTAL DISCHARGE; AMENDING SECTION 25-145 PERTAINING TO FEDERAL CATEGORICAL PRETREATMENT STANDARDS; AMENDING SECTION 25-145 PERTAINING TO WASTEWATER CONTRIBUTION PERMITS; APPLICATIONS; AMENDING SECTION 25-149 PERTAINING TO PERIODIC COMPLIANCE REPORTS; AMENDING SECTION 25-176 PERTAINING TO TRAPS/INTERCEPTORS – VIOLATIONS; AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Barrett stated that, based on recommendations of the City Attorney, he and Councilmember Pearson had a conflict of interest because they live in the area relevant to the discussion on this agenda item and they have recused themselves from the discussion and vote.

Clerk's Note: Mayor Barrett and Councilmember Pearson left the meeting at approximately 7:05 p.m.

Brian Biesemeyer, Deputy Utilities Director, provided an overview of proposed code changes to Chapter 25 of the Peoria City Code (1992 Edition) establishing and defining non-potable water service. Mr. Biesemeyer explained the purpose of these proposed code changes is to define non-potable water, its uses and limitations, the responsibilities of the City and customers, and to allow the City to set non-potable rates. Other miscellaneous changes to the code are included for the purpose of realigning the code to current policies and procedures.

Mr. Biesemeyer informed that non-potable water is untreated water that does not meet drinking water standards. Non-potable water, as proposed, can be an economical and

efficient water source, its use is limited by law and by practicality.

Necessary code changes include provisions for rate setting, promulgation and enforcement regulations, which mirrors the existing non-reclaimed code, installation requirements, procedure for ordinances, procedure for expansion of non-potable systems, procedures and regulations for efficient operations as well as limitations on time and quantity of use. Additionally, customer service agreements that ensure customers clearly understand the limited use, the limited availability and the requirements for payment have been included in the code changes.

Motion was made by Councilmember Aames, seconded by Councilmember Hunt to adopt **ORD. 08-35** amending Chapter 25 of the Peoria City Code (1992 Edition) establishing and defining non-potable water service.

Upon vote, the motion carried unanimously, 5 to 0. Clerk's Note: Mayor Barrett and Councilmember Pearson recused from voting.

17R PUBLIC HEARING - Non-Potable Water Rates

RESOLUTION NO. 08-159

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, ESTABLISHING RATES IMPOSED FOR NON-POTABLE WATER USE; NON-POTABLE WATER RATE COMPONENTS; SERVICE CHARGES AND FEES FOR USE OF THE MUNICIPAL NON-POTABLE WATER UTILITY SYSTEM AND ADOPTING A SCHEDULE OF CHARGES FOR THE USE OF THE MUNICIPAL NON-POTABLE WATER SYSTEM AND ALL SUCH ADJUSTMENTS TO BECOME EFFECTIVE AS PROVIDED HEREIN AND PROVIDING FOR AN EFFECTIVE DATE.

PUBLIC HEARING: Vice Mayor Carlat opened the Public Hearing and asked if any Councilmember or citizen wished to comment on creating a new non-potable water rate to be effective January 2, 2009.

Staff Report/Public Comment:

Vicky Rios, Revenue Manager, provided an overview of the process used to analyze and establish rates for non-potable water, customer impacts of this rate and the statutory requirements for setting rates.

In response to questions from Councilmember Aames, Stephen Bontrager, Utilities Director, defined the difference between non-potable well water and reclaimed water and provided the rates for reclaimed water.

James Pellicciotti addressed Council stating he represents concerned homeowners from the Desert Harbor Community. Mr. Pellicciotti stated the 762% increase in Desert Harbor Home Owners' Association fees has a direct effect on the irrigation rate. Desert Harbor Lake Community owns 8% of the Desert Harbor well, which qualifies as a non-potable well. In 1994, the developer transferred the rest of the well to the City of Peoria in exchange for development concessions and the promise that the City would manage the well and charge Desert Harbor an irrigation rate.

Vice Mayor Carlat stated that the agenda item was with respect to non-potable water rates and not specific to a contract regarding the well at Desert Harbor. Steve Kemp, City Attorney, advised that the agenda item is for the discussion of the proposed non-potable rates only, which would not include discussion of the meaning of the Desert Harbor settlement or any of the terms of that settlement.

Vice Mayor Carlat indicated that non-agenda items could be addressed during the Call to the Public section of the Agenda.

Mr. Pellicciotti inquired as to the reasons why Mayor Barrett and Councilmember Pearson had recused from the discussion and voting of this agenda item. Mr. Kemp advised that under Arizona Law, Mayor Barrett and Councilmember Pearson have appropriately recused themselves.

Jack Kithcart addressed Council stating that Desert Harbor owns their own water, and assessing rates for the non-potable water takes away Desert Harbor's rights to use their water. Mr. Kithcart stated Desert Harbor was guaranteed in perpetuity to be able to use the water.

Mary Lou Carter addressed Council stating she would like to see the Council return Desert Harbor Lake rates back to what they were before the increase.

Michael D'Alonzo addressed Council stating he recently purchased his home and had a water rate of $.32 per thousand gallons and now it has been increased to $1.40. Mr. D'Alonzo stated he would not have purchased the property if he had known this would happen.

Michelle Turner addressed Council stating that her community loses all rights to drilling on their own well if this Ordinance is passed. Ms. Turner inquired as to who would have well rights if this Ordinance is passed.

Joanna Conde' addressed Council stating she would like to know if this Ordinance, if passed, will prevent her community from drilling a well, if they had water rights. Ms. Conde' also requested that there be separate rates for non-potable water, reclaimed water and regular water. Ms. Conde' inquired as to whether an entity has the choice as to what type of water they are using.

Councilmember Aames requested that Steve Kemp, City Attorney, address these questions.

Mr. Kemp stated that there is a required permitting process when drilling wells. A permit must be obtained from the Arizona Department of Water Resources, which requires approval from other parties having wells. Mr. Kemp stated the adoption of this Ordinance does not impact irrigation approvals, as they are separate and distinct from this Ordinance. Mr. Kemp stated this Ordinance and the accompanying Resolution only establish rates for a specific portion of water and does not affect the rates for other types of water.

Stephen Bontrager, Utilities Director, stated an applicant must submit an application to the Arizona Department of Water Resources in order to drill on a well. If the well pumps less than 35 gallons a minute, it would be an exempt well, and nothing more is required of the applicant other than the application. If the well pumps more than 35 gallons a minute, an impact analysis would be required to determine if other wells would be adversely impacted by drilling.

Allen Molmod addressed Council stating Desert Harbor is currently in debt in excess of $200,000 because of the new rate that was passed on January 1 and Desert Harbor cannot survive financially unless the $1.40 rate is approved. Mr. Molmod stated he is in favor of the rate change only if this discussion is about changing the rate, and would not change any future involvement of getting the well issues resolved.

Esther Macklin addressed Council stating she is in favor of this rate because it will help the community get a handle on the financial problems in Desert Harbor.

Rachelle Barrett addressed Council thanking staff for their diligent work with the community over the last six months and the research staff did to find an alternative between potable water and reclaimed water and to come up with a third choice. Ms. Barrett stated she believes drinking water should not be placed in a 48-acre recreational lake.

Peter Pingerelli addressed Council stating he is in favor of this rate. Mr. Pingerelli stated he understands there are still issues that need to be resolved regarding ownership and he looks forward to resolving the issues with the City.

Councilmember Aames stated the non-potable water is another alternative for industries and businesses as well as for Desert Harbor.

Councilmember Evans stated that the Council has heard the concerns of Desert Harbor and trust that staff will work with the residents on these issues. Councilmember Evans stated that if the City can find an alternative where drinking water is not used for recreational play, it is a very important step the City is making.

Vice Mayor Carlat stated City staff will work with Desert Harbor Community residents to address the issues raised.

Having no further requests from the public to address this item, Vice Mayor Carlat declared the Public Hearing closed.

Council Action: Motion was made by Councilmember Evans, seconded by Councilmember Aames to adopt **RES. 08-159** creating a new non-potable water rate and establishing the new rate effective January 2, 2009.

Upon vote, the motion carried unanimously 5 to 0. Clerk's Note: Mayor Barrett and Councilmember Pearson recused from voting.

Clerk' Note: A short recess was held in order to allow Mayor Barrett and Councilmember Pearson to return to the meeting.

18R Contract, J. Banicki Construction, Inc., Lake Pleasant Mobile Home Estates Street Reconstruction, 107th Avenue and Palm Tree Drive

Dan Nissen, Assistant City Engineer, provided an overview of the request to approve a construction contract for the reconstruction of the residential streets in the Lake Pleasant Mobile Home Park Estates subdivision. Mr. Nissen provided history about the subdivision. The subdivision is located northwest of 107th and Union Hills Drive, specifically bounded on the east by 107th Avenue, on the west by 109th Avenue, on the north by Palm Tree Drive, and on the south by Sack Drive. The improvements in this contract include repairing 107th Avenue at the intersection with Palm Tree Drive and Sack Drive, repairing the broken concrete, curb, gutter and valley gutters, and constructing new sections of gutter. It also includes constructing an asphalt sidewalk along the west side of 107th Avenue between Palm Tree and Sack Drive where a sidewalk and the existing roadway improvements on 107th Avenue currently do not exist. The construction of the project, subject to approval, will occur between January and May of 2009.

In response to questions from Councilmember Aames, Mr. Nissen explained the process the City goes through to choose which streets throughout the City are in need of rehabilitation and reconstruction.

Motion was made by Vice Mayor Carlat, seconded by Councilmember Hunt to award an individual Job Order Contract in the amount of $862,936.54 to J. Banicki Construction, Inc. for pavement construction for Lake Pleasant Mobile Home Estates located at the southwest corner of 107th Avenue and Palm Tree Drive (Project P-0807) (ACON55108P1).

Upon vote, the motion carried unanimously.

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)

James Pellicciotti addressed Council stating Desert Harbor signed an agreement without Board approval, which effectively stripped Desert Harbor of their future City irrigation water rate. Mr. Pellicciotti inquired about overbilling in 2000; Desert Harbor being disconnected from the well in 2001; an $80,000 reconnect fee; and Desert Harbor not being allowed to pump water from the well.

Mary Lou Carter addressed the Council requesting Council return Desert Harbor lake water rates back to what they were before the increase.

Patricia Tuskan addressed the Council stating she is very concerned about the rate increase because it has put the Desert Harbor community into a terrible financial situation. Ms. Tuskan inquired as to who in the City prompted the rate increase and for what reasons.

Jack Kithcart addressed Council stating that charging Desert Harbor for potable water has created close to $400,000 in expenses for Desert Harbor. Mr. Kithcart stated he hopes the outcome of this is that the City will work with Desert Harbor to try to make this good for everybody in the community.

Gracie Vasquez congratulated Councilmember Hunt on retaining her seat in the recent recall election. Ms. Vasquez stated she is proud to have run a clean campaign and for having the opportunity to have gone through a political experience. Ms. Vasquez extended an invitation to Councilmember Hunt to talk to her about district issues.

Reports from the City Manager:

1. Council Calendar

2. Reports with Presentation

    a. Community Development Study Update

Glen Van Nimwegen, Community Development Director, provided an update on the two Community Development Studies currently in process. The first study, Central Peoria Revitalization Plan, includes many of the goals identified in the previous Central Peoria Revitalization Plan, but not addressed. Those goals include multi-modal transportation, overall improvements to the streetscape, historic resources in the downtown, parking, economic analysis of our downtown and civic engagement. The second study, Peoria Sports Complex District Urban Design Plan, is for the area between Loop 101, Bell Road on the north, east of 75th Avenue and then the southern edge of the Skunk Creek Drainage area is the southern boundary of this study. Objectives for this study include facilitating mixed uses, sustaining transit-oriented design and taking advantage of Skunk Creek. The first staff meeting is scheduled for December 10. A Project Advisory

Committee comprised of stakeholders is being formulated to identify development alternatives for the Peoria Sports Complex.

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.)

a. Clean Air Campaign Award 2008

Carl Swenson, City Manager, informed Council the City has won the Clean Air Campaign Award for the Outstanding Trip Reduction Program from Valley Metro, in recognition of the City's strategies that build employee awareness about trip reduction and alternative modes of transportation. Randy Roberts, Transit Manager, has been leading this effort.

b. Arizona Water and Pollution Control Association Awards

Carl Swenson, City Manager, informed Council the City has also won several awards from the Arizona Water and Pollution Control Association. A Letter of Commendation has been awarded to the City for water utilities, recognizing the City's significant achievements in safety in water facilities across the community. The City also received an Award of Merit for the City's wastewater treatment plants, recognizing the outstanding safety programs that the staff has implemented in these areas. Raymond Trahan has been recognized as Supervisor of the Year, and Robert Garcia has been recognized as Operator of the Year.

c. International Interior Design Association Award

Carl Swenson, City Manager, informed Council that the International Interior Design Association has recognized Dick and Fritsche, the design group that worked with the City on the Development and Community Services Building, recognizing the interior design of that building with the Outstanding Interior Design for Public Buildings award.

Steve Kemp, City Attorney, provided an update to Council on the Utility Line Siting Committee, where the City has requested the APS power line be placed along Highway 74 and not on the Carefree Alignment. The Line Siting Committee has agreed with the City of Peoria and their recommendation to the Arizona Corporation Commission will be to adopt placement of the lines along State Route 74. The Arizona Corporation Commission will make the final decision where the APS line will be placed.

Reports from City Council:

Councilmember Leone stated he was proud of Gracie Vasquez for the campaign she ran. Councilmember Leone informed of all of the City of Peoria activities he attended. Councilmember Leone stated he will be a judge for the gingerbread houses on December 5.

Councilmember Hunt thanked Gracie Vasquez for the flowers Gracie gave to her. Councilmember Hunt stated that it will snow for the Oldtown Holiday Festival on December 5 from 5:00 until 10:00 p.m. in front of the Historical Society.

Councilmember Evans encouraged Peoria residents to do their holiday shopping in Peoria so that the tax dollars can help our community.

Vice Mayor Carlat reiterated the information about the APS Line Siting Committee, and thanked the Vistancia residents for showing support for their community.

Reports from the Mayor:

Mayor Barrett complimented Steve Burg, Chief Assistant City Attorney, and the legal staff for their work with the APS Line Siting. Mayor Barrett cautioned that the fight is not over yet. The Arizona Corporation Commission will need to endorse the recommendation of the Line Siting Committee.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 8:40 p.m.

_____
Bob Barrett, Mayor

ATTEST:

_____
Mary Jo Kief, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the City Council of Peoria, Arizona held on the 2nd day of December, 2008. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 6th day of January, 2009.

(Seal)

_____

Mary Jo Kief, City Clerk