

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
COUNCIL CHAMBER
November 16, 2010

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 Evans led the Pledge of Allegiance.

Members Present: Mayor Bob Barrett; Vice Mayor Ron Aames; Councilmembers Cathy Carlat, 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; Steve Kemp, City Attorney; Rhonda Geriminsky, Acting City Clerk; Andy Granger, John Imig, Bill Mattingly, Brent Mattingly, Rocky Smith, Thomas Solberg, Jeff Tyne, Glen Van Nimwegen, Claudia Luján and Linda Blas.

Audience: Approximately 40 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.

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

Councilmember Pearson requested that Agenda Item 2C be removed from the Consent Agenda.

Motion was made by Councilmember Carlat, seconded by Vice Mayor Aames, to approve the Consent Agenda with the exception of Agenda Item 2C.

Upon vote, the motion carried unanimously 7 to 0.

1C Code Amendment, Chapter 2, Filming Permit Application Fee

ORDINANCE NO. 2010-32

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 2 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 2-227 PERTAINING TO COMMUNICATIONS AND PUBLIC AFFAIRS DEPARTMENT; FEES, FILMING PERMIT APPLICATION; AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Adopted **ORD. 2010-32** amending Chapter 2 of the Peoria City Code (1992 Edition) Section 2-227 and Table 2-227 to reduce the application fee required to obtain a permit to engage in commercial electronic or film recording in Peoria.

2C Code Amendment, Chapter 9, Regulating the Use of Fireworks

Clerk's Note: This item was heard separately at the end of the Consent Agenda.

ORDINANCE NO. 2010- 33

AN ORDINANCE OF THE CITY OF PEORIA MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 9 OF THE PEORIA CITY CODE (1992) BY ENACTING SECTION 9-46 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; DEFINITIONS; ENACTING SECTION 9-47 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; PROHIBITED; EXCEPTIONS; ENACTING SECTION 9-48 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; SALE OF FIREWORKS; VIOLATIONS; ENACTING SECTION 9-49 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS; CIVIL PENALTY: ENACTING SECTION 9-50 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; AUTHORITY TO ENFORCE VIOLATIONS OF THIS ARTICLE; MEANS OF ENFORCEMENT; ENACTING SECTION 9-51 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; LIABILITY FOR EMERGENCY RESPONSES RELATED TO USE OF FIREWORKS; DEFINITIONS; ENACTING SECTION 9-52 WHICH WAS PREVIOUSLY RESERVED AND NOW PERTAINS TO FIREWORKS; PENALTY AND ESTABLISHING SECTIONS 9-53,

9-54, AND 9-55 AS RESERVED; PROVIDING FOR AN EXPIRATION DATE; AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

At the request of Councilmember Pearson, Agenda Item 2C was pulled from the Consent Agenda for separate discussion.

Steve Kemp, City Attorney, recapped House Bill 2246 enacted by the State Legislature. The bill, governing the sale of consumer fireworks, will become effective December 1, 2010, and includes provisions allowing the City to regulate the use of fireworks within its boundaries.

Sara Sparman, a representative for TNT Fireworks, urged Council to reconsider banning the use of fireworks. Ms. Sparman advised Council that injuries attributed to fireworks have decreased substantially in states where fireworks were legalized. Ms. Sparman stated her company is currently working with the Governor's Office and the State Fire Marshal to implement an education program pertaining to fireworks.

Discussion ensued regarding the lack of public comment received pertaining to the use of consumer fireworks and advised that the proposed ordinance contains a sunset clause. The provisions of the ordinance will expire November 30, 2011, unless readdressed by Council.

Motion was made by Councilmember Pearson, seconded by Vice Mayor Aames, to adopt **ORD. 2010-33** amending Chapter 9 of the Peoria City Code (1992 Edition) regulating the use of fireworks within the City of Peoria corporate limits.

Upon vote, the motion carried unanimously 7 to 0.

3C Fiscal Year 2011 First Quarter Budget Amendments

Approved the Fiscal Year 2011 First Quarter Budget Amendments.

4C Rezone, 67th Avenue and Happy Valley Road

ORDINANCE NO. 2010- 34

AN ORDINANCE OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA REZONING CERTAIN PROPERTY FROM SUBURBAN RANCH (SR-43) TO C-2 INTERMEDIATE COMMERCIAL; AMENDING THE ZONING MAP AND PROVIDING FOR AN EFFECTIVE DATE.

Concurred with the Planning and Zoning Commission's recommendation and adopted **ORD. 2010-34** to rezone approximately 0.13 gross acres located south of the southwest corner of 67th Avenue and Happy Valley Road from SR-43 Suburban Ranch to C-2 Intermediate Commercial (Z10-0119).

5C Grant, Arizona State Forestry Division, Community Challenge Grant

- (a) Authorized staff to implement a \$7,500 Community Challenge Grant through the State of Arizona, State Forestry Division; and
- (b) Approved a budget transfer in the amount of \$7,500 from the Proposed Grants Fund Contingency Account to the Contractual Grounds Repair and Maintenance Account (LCON10910).

6C Grant, State of Arizona, Department of Homeland Security, Various Police and Fire Department Programs

- (a) Accepted six State of Arizona Department of Homeland Security grants awarded to the Police and Fire Departments for the sustainment and enhancement of the chemical, biological, radiological, nuclear, explosive (CBRNE) response and detection programs; to the Police and Fire Departments for the Terrorism Liaison Officer (TLO) programs; to the Fire Department for the Community Emergency Response Team (CERT) program; and to the Police Department for the City Hall Campus Target Hardening program;
- (b) Authorized a budget transfer for the Fire Department from the Proposed Grant Fund Contingency Account to various accounts in the Homeland Security Grant Fund in the amount of \$111,953; and
- (c) Authorized a budget transfer for the Police Department from the Proposed Grant Fund Contingency Account to various accounts in the Homeland Security Grant Fund in the amount of \$141,540 in order to establish an appropriation to expend the funds (LCON11010) (LCON11110) (LCON11210) (LCON11310) (LCON11410) (LCON11510).

7C Intergovernmental Agreement, Governor's Office of Economic Recovery, Public Safety Stabilization Program

- (a) Authorized the City Manager to execute an Intergovernmental Agreement with the Governor's Office of Economic Recovery and accept funding in the amount of \$80,800 for the purpose of supporting local public safety agencies (LCON11610); and
- (b) Authorized a budget transfer from the Proposed Grants Division Contingency Account to the Governor's Office of Economic Recovery Grant Fund in the amount of \$40,800 for Fire Department grants and \$40,000 to the Governor's Office of Economic Recovery Grant Fund for the Police Department grants in order to establish an appropriation to expend the funds.

8C Intergovernmental Agreement, State of Arizona, New River Trail Olive Avenue Underpass, Olive Avenue and New River Trail

RESOLUTION NO. 2010-93

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA AND THE CITY OF PEORIA FOR CONSTRUCTION OF NEW RIVER TRAIL OLIVE AVENUE UNDERPASS.

Adopted **RES. 2010-93** approving an Intergovernmental Agreement with the State of Arizona for construction of the New River Trail Olive Avenue Underpass Project, located at Olive Avenue and New River Trail (LCON11710).

9C Intergovernmental Agreement, Cities of Surprise and El Mirage, Radio Subscriber Support Services

Authorized the City Manager to execute an Intergovernmental Agreement with the City of Surprise and the City of El Mirage for the City of Peoria to provide radio subscriber support services (LCON11810).

10C Contract, Greater Phoenix Economic Council

Authorized the City Manager to renew the service contract with the Greater Phoenix Economic Council for Fiscal Year 2011 (LCON11910).

11C Contract, Raftelis Financial Consultants, Inc., Water and Wastewater Rate Analysis

- (a) Approved a contract with Raftelis Financial Consultants, Inc. in the amount of \$44,920 for a water and wastewater rate analysis (LCON12010); and
- (b) Approved a budget amendment in the amount of \$22,460 from the Water Operating Fund Contingency Account to the Water Operating Capital Projects Account and in the amount of \$22,460 from the Wastewater Operating Fund Contingency Account to the Wastewater Operating Capital Projects Account.

12C Contract, Maricopa County Community College District on behalf of Glendale Community College, Educational Services

Approved the Educational Services Agreement with Maricopa County Community College District on behalf of Glendale Community College for the provision of educational services within the State of Arizona (LCON12110).

13C Contract Amendment, Premier Engineering Corporation, New River Trail Olive Avenue Underpass, Olive Avenue and New River

Awarded Contract Amendment No. 6 to Premier Engineering Corporation in the not-to-exceed amount of \$19,705 for construction administration and survey services in support of the construction of the New River Trail Olive Avenue Underpass (LCON01704F).

14C Contract Amendment, Entellus, Inc., Westbrook Village Storm Drain Improvements

Approved Contract Amendment No. 7 with Entellus, Inc. in the amount of \$15,950 for additional design services associated with the Westbrook Village Storm Drain Improvements Project; Basin Modifications to Lake Pleasant Basin located at 87th Avenue and Lake Pleasant Parkway and Fletcher Heights Basin located at 87th Avenue and Beardsley Road (LCON08506G).

15C Authorize Expenditure, Data Backup Technology Solution Replacement

Authorized expenditures in the amount of \$325,000 utilizing existing purchasing contracts with the State of Arizona for the Data Backup Technology project related costs.

16C New Capital Improvement Program Project, 75th Avenue and Deer Valley Road Intersection Improvements

- (a) Created a new capital improvement project called 75th Avenue and Deer Valley Road Intersection Improvements (CIP Project Number EN00290);
- (b) Authorized the use of reserves; and
- (c) Authorized a budget transfer in the amount of \$279,000 from the Transportation Sales Tax Fund Contingency Account to the Transportation Sales Tax Fund Street System Account to fund the total estimated project cost.

17C Arizona Mutual Aid Compact and Maricopa County Community Wildfire Protection Plan

- (a) Adopted the Arizona Mutual Aid Compact which provides that each incorporated city of the state may appropriate and expend funds, make contracts and obtain and distribute equipment, materials and supplies for emergency management purposes (LCON12210); and
- (b) Adopted the Maricopa Community Wildfire Protection Plan developed in response to the Healthy Forests Restoration Act of 2003 for at-risk communities and unincorporated areas in Maricopa County.

18C Investment Report for the Quarter Ended September 30, 2010

Reviewed and accepted the Quarterly Investment Report for the period ended September 30, 2010.

19C Principles of Sound Financial Management

RESOLUTION NO. 2010-94

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

Adopted **RES. 2010-94** approving the revised Principles of Sound Financial Management.

20C Deeds and Easements, Various Locations

RESOLUTION NO. 2010-95

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING A RESOLUTION FORMALLY ACCEPTING DEEDS AND EASEMENTS FOR PROPERTY RIGHTS CONVEYED TO THE CITY OF PEORIA.

Adopted **RES. 2010-95** accepting deeds and easements for various real property interests acquired by the City and previously recorded by the Maricopa County Recorder's Office.

21C Final Plat, Vistancia Village A Parcel G2, Lone Mountain Road and Westland Road

Approved a final plat of Vistancia Village A Parcel G2, located at Lone Mountain Road west of Westland Road, subject to stipulations.

UNFINISHED BUSINESS

22R Public Hearing - Conditional Use Permit Appeal, 12-Pump Gas Station and Convenience Store - Mountainside Crossing Shopping Center, Lake Pleasant Parkway and Happy Valley Road (Item 20R, October 19, 2010)

STAFF REPORT:

Glen Van Nimwegen, Planning and Community Development Director, outlined the appeal of a Conditional Use Permit approved by the Planning and Zoning Commission for a proposed gas station and convenience store at Mountainside Crossing Shopping Center and provided a historical background on the site.

Mr. Van Nimwegen reported that after receiving approval from the Planning and Zoning Commission, the applicant amended the site plan which reduces the number of fuel pumps to 10 and reorients the building and fuel canopy perpendicular to the east-west access drive within Mountainside Crossing.

Mr. Van Nimwegen reported that 21 letters were received from surrounding property owners in support of the Conditional Use Permit and 36 letters in opposition.

PUBLIC HEARING:

Mayor Barrett opened the Public Hearing and asked if any Councilmember or citizen wished to comment on the request to reverse, affirm or modify the Planning and Zoning Commission's decision to approve a Conditional Use Permit for a gas station and convenience store on a pad at Mountainside Crossing Shopping Center located south of the southeast corner of Lake Pleasant Parkway and Happy Valley Road.

J. D. Campbell addressed Council and outlined the following reasons for appealing the Conditional Use Permit:

- Fuel pumps would be very close to his property
- The size and configuration of the convenience store is not conducive to a well-planned project
- Traffic flow in and out of the site blocking the roadway
- Congestion

Mark Rose addressed Council in support of a gas station at this location.

Gordon Adams spoke in support of the proposed gas station.

Matt Bullock expressed his opinion that a gas station at the proposed location would be convenient, boost business in the area and the City would collect the tax revenues from purchases made at this location.

Eric Young addressed Council in support of the proposed gas station.

Marvin Rose, developer of the site, addressed Council to request support of the development.

Mitch Atkinson addressed Council in support of the Conditional Use Permit. Mr. Atkinson expressed his opinion that a new gas station in this highly-developed area is very important to Peoria.

Having no additional requests from the public to address this item, Mayor Barrett declared the Public Hearing closed.

COUNCIL ACTION:

Discussion ensued regarding safety concerns and design standards.

Motion was made by Councilmember Carlat, seconded by Councilmember Hunt, to uphold and modify a unanimous decision by the Planning and Zoning Commission to approve a Conditional Use Permit for a proposed 10-pump gas station on a pad at

Mountainside Crossing Shopping Center located south of the southeast corner of Lake Pleasant Parkway and Happy Valley Road. The modification stipulates that additional landscaping shall be installed along the Lake Pleasant Parkway frontage to enhance screening and buffering of the fueling areas.

Upon vote, the motion passed 5 to 2, with Councilmember Leone and Councilmember Pearson voting “no”.

NEW BUSINESS

23R Public Hearing - Liquor Licenses, Various Locations

STAFF REPORT:

Brent Mattingly, Finance Director, reported that the properties were posted in accordance with Arizona Law, all fees were paid, all reviewing Departments recommended approval and no comments were received from the public.

PUBLIC HEARING:

Mayor Barrett opened the Public Hearing and asked if any Councilmember or citizen wished to comment on the request for:

- (a) A New Restaurant Liquor License (Series 12) for Twisted Italian, located at 9940 W. Happy Valley Road Suite #1080. Applicant: Michael D. Helbig, LL#10018688; and
- (b) A New Restaurant Liquor License (Series 12) for Tao Kitchen, located at 8385 W. Deer Valley Road #114. Applicant: Charlene C. Mai, LL#10018196.

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

COUNCIL ACTION:

Motion was made by Councilmember Leone, seconded by Vice Mayor Aames to recommend approval to the State Liquor Board for:

- (a) A New Restaurant Liquor License (Series 12) for Twisted Italian, located at 9940 W. Happy Valley Road Suite #1080. Applicant: Michael D. Helbig, LL#10018688; and
- (b) A New Restaurant Liquor License (Series 12) for Tao Kitchen, located at 8385 W. Deer Valley Road #114. Applicant: Charlene C. Mai, LL#10018196.

Upon vote, the motion carried unanimously 7 to 0.

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)

None.

Reports from the City Manager:

1. Council Calendar
2. Reports with Presentation
 - a. Centennial Plaza Final Design and Construction

Ed Striffler, Design and Construction Manager, gave a brief presentation on the final design of the Centennial Plaza project. Mr. Striffler noted that construction is scheduled to begin in December, and completion of the project is scheduled by Fall 2011.

3. Informational

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

- a. 2011 Arts Grant Recipients
- b. 2010 Peoria Old Town Holiday Festival

Reports from City Council:

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

Councilmember Hunt thanked the Woman's Club for helping to distribute 100 compact fluorescent light bulbs donated by Salt River Project to residents in the Acacia District for installation in front porch lights. Councilmember Hunt mentioned that the Police Department is collecting turkeys to distribute to St. Mary's Food Bank for Thanksgiving. Councilmember Hunt urged the public to attend the upcoming Old Town Holiday Festival on December 3, 2010.

Councilmember Evans wished the viewing public a Happy Thanksgiving and urged everyone who is planning on shopping for the upcoming holidays to spend their tax dollars in Peoria.

Councilmember Pearson congratulated staff and the Mayor for a memorable Veteran's Day event.

Councilmember Carlat provided information on behalf of the Boy Scouts of America, Lake Pleasant Region, and encouraged the public to support the organization by volunteering. Councilmember Carlat informed that the Vistancia Community will be hosting its First Annual Sonoma Wine and Jazz Festival on November 20 and 21, 2010.

Vice Mayor Aames reported on the various City of Peoria activities he attended. Vice Mayor Aames advised he will be putting up his tenth neighborhood entry sign at Bristol Manor on November 22, 2010.

Reports from the Mayor:

Mayor Barrett reported on the recent PACE conference on civic engagement and public participation held on the Municipal campus.

Mayor Barrett reported on his participation at two Veteran's Day events and congratulated staff for Peoria's Veteran's Day Recognition Ceremony.

ADJOURNMENT

Being no further business to come before the Council, the meeting was duly adjourned at 8:27 p.m.

Bob Barrett, Mayor

ATTEST:

Wanda Nelson, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the Regular Meeting of the City Council of Peoria, Arizona held on the 16th day of November, 2010. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 4th day of January, 2011.

(Seal)

Wanda Nelson, City Clerk