

**: OFFICIAL PROCEEDINGS :****: OF THE CITY OF PEORIA, ILLINOIS :**

Council Chambers, Peoria, Illinois, January 8, 2008, a Regular City Council Meeting was held this date at 6:20 P.M., at City Hall, Council Chambers, 419 Fulton Street, with Mayor Jim Ardis presiding.

**ROLL CALL**

Roll call showed the following Council Members were physically present: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears (arrived at 6:22 P.M.), Turner, Van Auken, Mayor Ardis – 11; Absent: None.

**INVOCATION & PLEDGE OF ALLEGIANCE**

Mayor Ardis requested a moment of silent prayer or silent reflection, and he then led the Pledge of Allegiance.

**PROCLAMATIONS, COMMENDATIONS, ETC.**

**PROCLAMATION:** PERCY BAKER, JR. DAYS - JANUARY 4-6, 2008

**PROCLAMATION:** SHOP WITH COPS

**PROCLAMATION:** COPS FOR KIDS

**PRESENTATION:** \$100,000 DONATION TO THE PEORIA ANIMAL WELFARE SHELTER FROM THE ESTATE OF MR. ALFRED GRUPE, A FORMER PEORIA RESIDENT

**MINUTES**

Council Member Nichting moved to approve the minutes of the Special City Council Meeting held on December 17, 2007, and the Executive Sessions held on December 11 and 17, 2007; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

**PETITIONS, REMONSTRANCES & COMMUNICATIONS – CITY OF PEORIA**

**CONSIDERATION OF CONSENT AGENDA ITEMS BY OMNIBUS VOTE, for the City of Peoria, with Recommendations as Outlined:**

**(08-001) NOTICE OF LAWSUIT Filed on Behalf of GENERAL PARKER Regarding a Complaint Alleging that the Open Meetings Act was Violated on October 9, 2007, with Recommendation to Receive and File and Refer to the Legal Department.**

**(08-002) NOTICE OF LAWSUIT Filed on Behalf of JON C. ALEXANDER Regarding a Police Incident on November 22, 2006, with Recommendation to Receive and File and Refer to the Legal Department.**

- (08-003) Communication from the City Manager and Acting Director of Human Resources Requesting Approval of RESOLUTION NO. 08-003 Appointing Human Resources Coordinator, Janet Tomlins, as the INTERIM AUTHORIZED AGENT for the ILLINOIS MUNICIPAL RETIREMENT FUND (I.M.R.F.).
- (08-004) Communication from the City Manager and Director of Economic Development Requesting Authorization to Submit an APPLICATION to the STATE OF ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY (DCEO) with Recommendation from the Planning Commission for Approval and Requesting Adoption of ORDINANCE NO. 16,232 Amending Ordinance No. 11,051 EXPANDING the BOUNDARIES of the ENTERPRISE ZONE to Include the SHERIDAN TRIANGLE BUSINESS DISTRICT and the PROSPECT ROAD BUSINESS DISTRICT.
- (08-005) APPOINTMENT by Mayor Jim Ardis to the PEORIA HOUSING AUTHORITY, with Recommendation to Concur:
- Robin Stuckey (Voting) - Term Expires 11/17/2010
- (08-006) APPOINTMENTS by Mayor Jim Ardis to the SISTER CITY COMMISSION, with Recommendation to Concur:
- Timothy Doyle (Voting)  
Bradford B. Ingram (Voting) - Term Expires 6/30/2008  
Leo F. Jordan (Voting) - Term Expires 6/30/2009

Mayor Ardis questioned if the Council wished to have any of the Consent Agenda items removed for further discussion.

Council Member Nichting moved to approve the Consent Agenda items as outlined in the Council Communications; seconded by Council Member Manning.

Item Nos. 08-001 through 08-006 were approved by roll call vote under the Omnibus Vote Designation.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

- (08-007) Communication from the City Manager and Director of Public Works Requesting Approval of the GENERAL SCOPE of WORK for the STUDY of the US 24 CORRIDOR Through the City of Peoria from I-474 to US 150 to be Performed by the IDOT-Selected CONSULTANT CHRISTOPHER B. BURKE ENGINEERING, LIMITED, and to Confirm the Priority of the Tasks as Identified in the Communication.

Following a brief comment, Council Member Gulley moved to approve the general scope of work for the Study of the US 24 Corridor through the City of Peoria from I-474 to US 150 to be performed by the IDOT-selected Consultant Christopher B. Burke Engineering, Limited, and to confirm the priority of the tasks as identified in the communication; seconded by Council Member Turner.

Council Member Sandberg said, for the record, the City had to perform the proposed Study before the State would consider any changes to Washington Street and US 24.

City Manager Randy Oliver confirmed Council Member Sandberg's comment was accurate information.

In discussion with Council Member Manning regarding the priorities and rankings, City Manager Oliver explained it would cost between \$500,000 and \$600,000 to complete the Study and IDOT's funding was approximately \$325,000. He said the City tried to break the project down into logical steps. He stated it was his understanding that IDOT had agreed with the priorities, and IDOT had reviewed the priorities with Senator Koehler.

Director of Public Works Dave Barber stated the first priority listed, which was the main section of the City, would consume most of the funding. He said contract negotiations would be completed with IDOT and the consultant so the exact amount would be known. He said he would like to come back to Council at a later date to discuss how the second and third priorities could be funded.

City Manager Oliver said he felt further discussion with IDOT and Senator Koehler should be held. He questioned if the scope reflected the Council's priorities.

Council Member Manning expressed concern that the Council had not debated these priorities. He further stated he had some concerns regarding the City's portion of the costs and he felt the priorities needed further review.

In discussion with Council Member Jacob, Director Barber stated the costs as presented were based on estimates at this point.

Mayor Ardis said he felt the Administration needed further direction from the Council regarding what the priority focus should be for the funding available.

In further discussion with Council Member Nichting regarding removing US 24 from the City of Peoria, Director Barber stated this was a task that should be deferred until a later date. He said that relocation may not be needed and he would rather spend the money on completing the Study.

Council Member Nichting expressed concern that if US 24 was removed from the City of Peoria, the City would also lose Federal and State funding. He said businesses and citizens involved would need to be informed about plans regarding US 24.

Council Member Spain said he felt it was a key priority to complete the Study related to the downtown area, Washington Street, and the Warehouse District. He said he agreed that the downtown area should be the first priority and locations North and South of the first priority would be next as soon as costs were known.

Council Member Sandberg said he agreed that removing US 24 from the City should be at least deferred or never considered. He expressed concern regarding costs that had been spent with a previous consultant and he said he felt the third priority listed in the Council communication regarding West Krause Avenue to I-474 (south section) was equally important due to the impact on the Eagle View TIF, which could affect development opportunities for this area.

City Manager Oliver confirmed that Senator Koehler indicated his top priority regarded the area North of I-74. He said his goal was to negotiate a contract that would include the first and second priorities in the \$325,000 funding.

Following further comments, Council Member Gulley moved for a substitute motion to approve the general scope of work for the Study of the US 24 Corridor through the City of Peoria from I-474 to US 150 to be performed by the IDOT-selected Consultant Christopher B. Burke Engineering, Limited; seconded by Council Member Van Auken.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

Council Member Nichting moved to remand the priority of the tasks as identified in the communication back to the Administration for future discussion; seconded by Council Member Gulley.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 11;

Nays: None.

### **UNFINISHED BUSINESS**

- (07-427) Communication from the City Manager and Director of Public Works Requesting to Concur with the Recommendation from the Traffic Commission and Staff to DENY a REVOCABLE RIGHT-OF-WAY PERMIT for the COVES of CHARTER OAK HOMEOWNER'S ASSOCIATION to Allow Them to Install a GATE, at no Cost to the City, on SEDLEY AVENUE Between Mooring Way and Verner Drive.**

Council Member Spears moved to concur with the recommendation from the Traffic Commission and Staff to DENY a revocable right-of-way permit for the Coves of Charter Oak Homeowner's Association to allow them to install a gate, at no cost to the City, on Sedley Avenue between Mooring Way and Verner Drive; seconded by Council Member Van Auken.

Motion to Deny was approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Sandberg, Spain, Spears, Turner, Van Auken, Mayor Ardis – 10;

Nays: Nichting - 1.

- (07-721) Communication from the City Manager and Corporation Counsel Requesting Adoption of an ORDINANCE Amending CHAPTER 18 of the Code of the City of Peoria Relating to ADULT BUSINESSES and LIQUOR LICENSES.**

Council Member Jacob said he would be abstaining from voting on this item because he was a liquor licensee and was prohibited from voting on liquor related matters by State Statute 235 ILCS 5/6-2.

Council Member Sandberg said he had been advised by the Corporation Counsel that, due to providing professional services at a location on North University, he should abstain from the discussion and vote on the proposed Ordinance modification. He said, while he did not agree with this direction, it was not his desire to place the City in a position of litigation that would result in higher costs so he would honor the advice.

Corporation Counsel Randy Ray explained this item was based on a recent decision made by the Seventh Circuit Court of Appeals, which indicated that treating existing adult businesses differently from new adult businesses, regarding liquor licensing, would not withstand the intermediate scrutiny that would be given. He added the City's current Ordinance would need to be amended in order to comply with that decision.

Council Member Van Auken moved to adopt an Ordinance amending Chapter 18 of the Code of the City of Peoria relating to Adult Businesses and Liquor Licenses; seconded by Council Member Manning.

ORDINANCE NO. 16,233 was approved by roll call vote.

Yeas: Gulley, Manning, Montelongo, Spain, Spears, Turner, Van Auken – 7;

Nays: Nichting, Mayor Ardis – 2;

Abstentions: Jacob, Sandberg - 2.

**(07-714) Communication from the City Manager and Corporation Counsel  
Requesting Adoption of an ORDINANCE Amending CHAPTERS 1 and 15 of  
the Code of the City of Peoria Adopting SMOKE FREE ILLINOIS ACT, 410  
ILCS 82/1, et. seq.**

Following some brief comments, Council Member Spain moved to reconsider the vote taken on this item at the December 17, 2007, City Council Meeting regarding an Ordinance amending Chapters 1 and 15 of the Code of the City of Peoria adopting Smoke Free Illinois Act, 410 ILCS 82/1, et. Seq.; seconded by Council Member Montelongo.

Council Member Spain said this was a State law and when this item came back to Council, the City should be able to be in compliance and encourage the spirit of the law, which he felt would be difficult to enforce.

Council Member Sandberg questioned the Corporation Counsel for a point of order. He said he felt this Ordinance was unlike a zoning case that would be required to be discussed at the next Council Meeting. He said this Ordinance or any modification may be affected by meetings in Springfield in the next few days and could come forward to the Council at any time and would not need to come before the Council in a motion to reconsider. Corporation Counsel Randy Ray confirmed this was accurate information.

Council Member Sandberg said, with this clarification, he did not understand why a motion at this time was needed. He said he did not feel the Ordinance should come back before the Council until the State had more clarification.

In discussion with Council Member Nichting regarding local enforcement of a State law, Corporation Counsel Randy Ray confirmed that the City would not have the ability to ignore the State Statute. He added the City could pass an Ordinance with more restrictions, but the Ordinance would at least have to be as strict as the State's law.

Motion to reconsider the vote taken on this item at the December 17, 2007, City Council Meeting regarding an Ordinance amending Chapters 1 and 15 of the Code of the City of Peoria adopting Smoke Free Illinois Act, 410 ILCS 82/1, et. Seq., was approved by roll call vote.

Yeas: Jacob, Manning, Montelongo, Nichting, Spain, Turner, Mayor Ardis – 7;

Nays: Gulley, Sandberg, Spears, Van Auken - 4.

Council Member Spain moved to defer Item No. 07-714 regarding a request to adopt an Ordinance amending Chapters 1 and 15 of the Code of the City of Peoria Adopting Smoke Free Illinois Act, 410 ILCS 82/1, et. seq. until the first Regular City Council Meeting in February, which would be February 12, 2008; seconded by Council Member Montelongo.

Motion to defer Item No. 07-714 until February 12, 2008, was approved by roll call vote.  
Yeas: Jacob, Manning, Montelongo, Nichting, Spain, Spears, Turner, Van Auken,  
Mayor Ardis – 9;  
Nays: Gulley, Sandberg - 2.

### **NEW BUSINESS**

There was no New Business to come before the City Council.

### **CITIZEN REQUESTS TO ADDRESS THE COUNCIL**

There were no citizens who wished to address the Council at this meeting.

### **EXECUTIVE SESSION**

**(08-008) REQUESTING APPROVAL of a MOTION for the CITY COUNCIL to go into EXECUTIVE SESSION to Discuss 2(c)(1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body, including hearing testimony on a complaint lodged against an employee to determine its validity; 2(c)(2) Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees; and 2(c)(11) Litigation, when an action against, affecting, or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that such an action is probable or imminent.**

Council Member Manning moved that the City Council to go into Executive Session to Discuss 2(c)(1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body, including hearing testimony on a complaint lodged against an employee to determine its validity; 2(c)(2) Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees; and 2(c)(11) Litigation, when an action against, affecting, or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that such an action is probable or imminent; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Gulley, Jacob, Manning, Montelongo, Nichting, Sandberg, Spain, Spears, Turner,  
Van Auken, Mayor Ardis – 11;

Nays: None.

### **ADJOURNMENT**

Council Member Jacob moved to adjourn the Regular City Council Meeting; seconded by Council Member Van Auken.

Approved by viva voce vote.

The City Council Meeting adjourned at 7:23 P. M.

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Mary L. Haynes, MMC, City Clerk  
City of Peoria, Illinois