

MINUTES

LEAGUE OF ARIZONA CITIES AND TOWNS

EXECUTIVE COMMITTEE MEETING

Friday, February 10, 2017 at 10:00 a.m.
League of Arizona Cities and Towns
1820 W. Washington St.
Phoenix, Arizona

MEMBERS

President

Jay Tibshraeny, Mayor, Chandler

Thomas L. Schoaf, Mayor, Litchfield Park

Ed Honea, Mayor, Marana

John Giles, Mayor, Mesa

Vice President

Mark Nexsen, Mayor, Lake Havasu City

Cathy Carlat, Mayor, Peoria

Daniel Valenzuela, Councilmember, Phoenix

Harry Oberg, Mayor, Prescott

Treasurer

Christian Price, Mayor, Maricopa

Harvey Skoog, Mayor, Prescott Valley

W.J. "Jim" Lane, Mayor, Scottsdale*

Georgia Lord, Mayor, Goodyear

Doug Von Gausig, Mayor, Clarkdale

Daryl Seymore, Mayor, Show Low

Gilbert Lopez, Councilmember, Coolidge

Rick Mueller, Mayor, Sierra Vista*

Lana Mook, Mayor, El Mirage

Sharon Wolcott, Mayor, Surprise+

Linda Kavanagh, Mayor, Fountain Hills

Bob Rivera, Mayor, Thatcher

Jenn Daniels, Mayor, Gilbert

Mark Mitchell, Mayor, Tempe

Jerry Weiers, Mayor, Glendale

Jonathan Rothschild, Mayor, Tucson

Douglas Nicholls, Mayor, Yuma+

* *Participated via phone*

+ *Not in attendance*

President Jay Tibshraeny called the meeting to order at 10:02 a.m.

President Jay Tibshraeny asked to begin the meeting at item number six on the agenda and recognized Nominating Committee Member Mayor Cathy Carlat to present on the Nominating Committee and two new proposed members for the Executive Committee.

6. CONSIDERATION OF EXECUTIVE COMMITTEE APPOINTMENTS

Mayor Cathy Carlat reminded the Executive Committee that the Nominating Committee had met in August and had received 11 applications from local elected officials interested in serving on

the League Executive Committee. At the time, only one seat was open and it was the decision of the Nominating Committee to nominate Mayor Jenn Daniels of Gilbert to fill that seat. She was later elected in the Annual Business Meeting. Mayor Carlat also indicated that at the time the Nominating Committee was aware of two seats that may be open due to individuals not seeking re-election in their local government elections. She informed the Executive Committee that the League charter states that the Committee may fill any unexpired terms of members who have left municipal office. She reported the practice is typically to fill existing vacancies at the February meeting and then to fill any vacancies following the February meeting at the Annual meeting in August. Per the recommendation of the Nominating Committee, she moved to appoint Mayor Harry Oberg of Prescott and Mayor Georgia Lord of Goodyear to fill the unexpired terms of Mayor Kenny Evans from Payson and Councilmember Gilbert Lopez of Coolidge. Mayor Bob Rivera seconded the motion and it carried unanimously.

President Tibshraeny welcomed the new members to the Committee.

1. REVIEW AND ADOPTION OF MINUTES

Mayor Mark Nexsen moved to approve the minutes of the November 4, 2016 Executive Committee Meeting; Mayor Jonathan Rothschild seconded the motion and it carried unanimously.

2. LEGISLATIVE POLICY DISCUSSION AND UPDATE

- **Governor's Proposed Budget**

President Jay Tibshraeny welcomed League Executive Director Ken Strobeck to provide the Executive Committee Legislative Update.

League Executive Director Strobeck informed the Executive Committee that the Legislature had been in session for one day past a month and notified them of upcoming deadlines at the Legislature. Mr. Strobeck then provided an update on Governor Doug Ducey's proposed budget.

Mr. Strobeck informed the Executive Committee that Governor Ducey's proposed budget continues to include the \$96 million sweep in the Highway User Revenue Fund. He reminded the Committee that last year included a \$30 million increase for local transportation projects; however, that money was appropriated as one-time and is not included in this year's proposed budget. Additionally, he indicated that several legislators were upset with the continuation of the HURF sweep, however, it would remain to be seen what the final sweep was as the budget continues into discussion.

Mr. Strobeck also informed the Executive Committee that while not explicitly within the proposed budget, he wanted to point out that the assessment for operations for the Department of Revenue would likely increase. Last year, cities and towns paid close to \$10 million for the work DOR does on behalf of cities and towns. However, now that DOR is collecting revenue for all

cities and towns, the percentage of the cost has increased and will likely be close to more than \$11 million.

Additionally, Mr. Strobeck discussed with the Executive Committee the proposal from the Arizona Board of Regents which would allow state universities to recapture the Transaction Privilege Tax they pay the state, including the shared revenue portion, and use it for bonding, general operations and student aid. He informed the Committee that the proposal would take approximately \$30.3 million in state tax and approximately \$6.5 million in shared revenue for use by the universities. Mr. Strobeck indicated that this proposal breaches the State Shared Revenue distribution formula which has been in place regarding TPT for more than 70 years and cautioned the Committee that if this proposal were to follow through, there would be no precedent to prevent community colleges, K-12 education and other public entities from proposing to recapture a portion of TPT through this process. He said a League resolution had been drafted to formalize our opposition to the proposal and he informed the Committee that the body could consider passing the resolution on the particular matter.

Mayor Giles questioned whether there were legal protections in the existing State Shared Revenue formula, citing Proposition 108, which states that 2/3 majority needs to vote in order to change the formula. The Executive Committee discussed the potential of including language about Proposition 108 within the resolution and it was determined that language about Proposition 108 and its potential legal ramifications should be added to the current proposition. Mayor Doug Von Gausig moved to approve the resolution with the amended language; Mayor Cathy Carlat seconded the motion and it carried unanimously.

Executive Director Strobeck then welcomed League Legislative Director Patrice Kraus to provide updates on additional bills.

- **Construction Sales Tax**

Legislative Director Kraus began by informing the Committee about the Transaction Privilege Tax (TPT) reform bill that had been dropped the day prior, House Bill 2521. She said that the bill's language eliminates prime contracting except for highway, street and bridge construction and that all local assessed construction tax would be eliminated, replacing prime contracting with retail tax on materials. Ms. Kraus noted that based on the analysis done by the construction sales tax taskforce, the League estimates the loss to the state general fund to be in excess of \$150 million dollars and the loss of local construction tax as being somewhere between \$120 and \$140 million dollars. She also informed the Committee that the JLBC is working on a fiscal note and the League is anxious to see if it draws similar conclusions regarding the impact on state and local revenues.

- **Other Major Bills**

Ms. Kraus then discussed bills related to Communities Facilities Districts. She reminded the Executive Committee that the development community had brought forth a bill the year prior that would have taken away municipal authority in the formation of financing districts. This year, two bills had been introduced on the matter of CFDs, one by the same group of individuals from the development community and another by the homebuilding community.

Ms. Kraus then discussed House Bill 2213, which addresses modifications to the Government Property Lease Excise Tax (GPLET) statutes. As with CFDs, she recognized that not every community uses this mechanism, but that it is one of the only economic development tools currently available to municipalities. She informed the Committee that the bill contained four elements: a grandfathering clause that indicates that some projects cannot be grandfathered under the rules that were in place prior to 2010; a definition change on the terms “slum” and “blight,”; requirement of payment during the 8-year abatement period; and a general recommendation regarding the calculation of collections and distribution and reporting of GPLET revenues. Ms. Kraus said that the proposed bill would render the current program virtually useless and that the League had expressed concerns to the bill’s sponsor. She also indicated that the development community is generally opposed to this bill and that might indicate that it will have trouble.

The Executive Committee questioned the change of definition in regards to the phrases, with Ms. Kraus clarifying that the language would make it more restrictive and that there was a provision that this language would need to be re-considered every five years. Many members of the Committee expressed great concern with this bill, citing specific examples of GPLET having been used within their own municipalities. Ms. Kraus informed the board that she was confident they could kill this bill. It was asked if the Legislative Staff could put together a 1-page sheet that includes all of the benefits of GPLET.

Ms. Kraus then welcomed League Legislative Associate Alex Vidal to present on presumption bills.

Legislative Associate Vidal reminded the Executive Committee that the workers’ compensation system provides benefits to workers injured on the job or off the job due to factors arising from their employment. A presumption of compensability establishes that a certain condition is presumed to be the result of one’s employment. Mr. Vidal informed the Executive Committee that firefighters had submitted a proposal to expand the list of existing presumptions to include 12 new cancers, along with another bill adding heart disease conditions that are presumed to arise out of employment as a firefighter. He said the League had questioned a related proposal that was submitted to a legislative study committee in December and we had tried to work with firefighters to negotiate a compromise. The negotiations broke down and now both bills establish presumption of compensability for the new cancers and heart disease. Mr. Vidal informed the Executive Committee that the League had been officially neutral on the bills but expressed concerns about how the bills were drafted.

Answering questions from the Executive Committee, Mr. Vidal informed the group that the burden of proof would now be upon the city or town to prove that the individual had not developed a disease through factors of their employment. Currently, the burden is upon the individual to prove that these employment factors caused the disease. Because the burden of proof had laid on the individual previously, it is difficult to determine a potential cost if this bill is to pass, as currently only claims move forward once they have been proven and in the proposed, all claims would move forward until proven otherwise. Additionally, Mr. Vidal told the Executive Committee that the language within the bill could be read to understand that these

presumptions might apply to all firefighters and that he could look into finding out how that applied to volunteer firefighters.

Members of the Executive Committee asked for clarification on the League's stance on the bill and if neutral was the right way to proceed. Additionally, it was clarified that this issue is referenced in two separate bills – one as relating to the 12 new types of cancer and one as relating to heart disease. Phoenix Councilmember Daniel Valenzuela asked to discuss these bills as separate and encouraged the Committee to seek further information before determining an opposition or support of either bill. Members of the Committee discussed concerns with both bills, particularly the one as it relates to heart disease, as not enough information was provided to determine what potential conditions could ultimately fall under that category. President Tibshraeny asked the members their preference on how to proceed regarding each bill. Mayor Doug Von Gausig moved for the Executive Committee to stand opposed to House Bill 2410, as related to cardiac presumptions. Mayor Harry Oberg seconded and the motion carried. The Committee directed League Legislative Staff to continue as neutral regarding the cancer presumption bill, but with the efforts to seek more information so an informed decision could be made at a later date.

League Legislative Associate Tom Savage provided the Executive Committee an overview on two “small cell” bills working their way through the Legislature. He noted that small cells are a prevalent issue at the Legislature along with other states that are considering similar legislation. Legislative Associate Savage first discussed Senate Bill 1214, which would allow cable companies to deploy small cell technologies, allowing them to attach to utility poles and through fiber optic cables to provide wireless connectivity where wireless providers are able to provide or install their own technology to provide this service. The League supported this bill through negotiations with Cox Communications; however, Mr. Savage indicated that there are a few issues still to address in regards to maintaining rights-of-way. He informed the Committee that some companies have certain placements and configurations of poles and cities and towns have the right to maintain infrastructure to push for hiding poles or maintaining aesthetically pleasing rights-of-way.

Additionally, Mr. Savage briefed the Committee on House Bill 2365, informing them that the proponents of this bill were companies in the wireless industry. He indicated that the League had several concerns with legislation as far as the ability for cities to manage their right-of-way. This bill essentially allows all locations in the right-of-way with small cell for little to no coordinating with city as far as placement, which limits the ability for reasonable restrictions on size, placement and concealment. Mr. Savage also informed the Committee that the bill establishes a \$20 fee cap, which is significantly less than what is currently being charged for colocation fees. In addition, there are other concerns regarding insurance indemnification provisions within the bill. He indicated he had originally signed in as neutral on this bill, with understanding that the wireless industry was going to continue negotiations on this bill to address the expressed concerns.

Tempe Mayor Mark Mitchell questioned whether the support of first bill would interfere with the League's mission to maintain local control and discussed the importance of maintaining rights-

of-way. Other members of the Executive Committee also voiced concern regarding the city or town's ability to control the rights-of-way within their communities.

Legislative Director Kraus addressed some of the expressed concerns, informing the Committee that small cell has a lot of support from the Legislature. As many cities want to bring in new technologies and are looking at 5G networks, she indicated it was important to balance finding certainty for the industry as they employ these new technologies. In addition, federal law requires them to be nondiscriminatory in how users of right-of-way are treated. She indicated that attorneys would be going through the bill in a more detailed way to try and figure out how to deploy new technology within communities and still maintain control of rights-of-way.

Gilbert Mayor Jenn Daniels and other members of the Executive Committee also discussed their desire to bring small cell to their communities, citing that many constituents are looking for this technology. She said she would like to be able to see the issues addressed and worked out so that this bill could move forward.

Mr. Savage also informed the Committee that they had asked the wireless industry to consider existing verticality and structures in rights-of-way before putting in new poles. Additionally, he said that in the situation of new utility poles, it would be beneficial to separate out wireless providers and carriers from infrastructure providers as the concern is that an infrastructure provider is going to co-locate the facilitates and then lease them out, which could make it so that there would be no space available on existing utility poles for wireless carriers. Mr. Savage also told the Executive Committee that proponents of the legislation have said they will concede to right-of-way management requests so long as the fee is as close to \$20 as possible.

League Executive Director Ken Strobeck informed the Executive Committee that the League is trying to work with the cable providers on their bill as they are much more willing to accommodate than those from the wireless industry, whose bill is based off of a national legislation model.

Mr. Savage addressed House Bill 2179 which would require review of all city and town Intergovernmental Agreements and would limit IGAs to a maximum duration of eight years. The proposed would require a majority vote by the city/town council to extend the IGA. The Executive Committee indicated they would oppose this bill. He also addressed House Bill 2212 which requires all cities and towns to compile an annual finance report detailing aggregate amount of federal funding they receive. They also would be required to develop a plan in the event of reduced or eliminated federal funding and submit it to the Arizona Department of Revenue. The Executive Committee indicated they would oppose this bill.

Finally, Mr. Savage informed the Committee about a bill proposed by Southwest Gas on behalf of other public service utility groups that would provide relocation costs for utilities to remove facilities from public utility easements in the event that there is prior land right. He indicated that they were negotiating with the utility companies on this bill to address concerns about broad language.

Legislative Director Patrice Kraus also addressed the Executive Committee to inform them that House Bill 2143, which would have impacted force account labor and public works employees, was included in the Call for Action section of the League's Legislative Bulletin last week and as a result of action, was held in Committee and would not be moving forward this year.

- **PSPRS Reform Update**

League Executive Director Mr. Strobeck communicated to the Committee that there had been a meeting the day prior of the PSPRS Board. A vote was conducted in that meeting that would have moved away from the 50/50 contribution split. League proponents discussed their concerns of the vote with members of the labor groups who then followed up with the chairman of the PSPRS Board, where the action was reconsidered. He indicated that this was a positive development for Tier III moving forward.

3. SB1487 DEVELOPMENTS

President Tibshraeny welcomed League General Counsel Christina Estes-Werther.

General Counsel Estes-Werther told the Executive Committee that they were still in litigation involving the complaint issued by Representative Finchem against the City of Tucson on its firearm disposal ordinance.

Ms. Estes-Werther informed the Executive Committee that they had been waiting on the Supreme Court to make a decision to accept jurisdiction of this case, as the Attorney General had filed the special action against Tucson in December. In January, the Supreme Court asked parties whether they should address the constitutionality of the law, with the respective parties responding in a short brief. The Supreme Court then followed up with six additional questions for the parties to address – four of which had to do with constitutionality of the law and the other two about charters, questioning whether Tucson code supersedes the state law.

Ms. Estes-Werther told the Executive Committee that oral arguments were set to be heard on February 28 at the Arizona State University Sandra Day O'Connor College of Law in Downtown Phoenix. Briefs would be due prior, with the parties providing responses to the six questions, in addition to the League filing another amicus.

4. TPT IMPLEMENTATION UPDATE

President Tibshraeny welcomed League Tax Policy Analyst Lee Grafstrom to provide an update on TPT Implementation.

League Tax Policy Analyst Grafstrom gave a brief overview of the work done on the TPT Implementation. He reminded the Executive Committee that in 2012, a taskforce was formed by Governor Brewer to review tax simplification and House Bill 2111 was passed that changed self-collections for cities to state collections. Working since 2013, the League and city and town staff had worked to ensure certain elements required by cities would be implemented. He informed

the Executive Committee that after several years of work, a system was now in place that captured every piece of data they were hoping to capture, providing reports that are accurate and detailed as cities requested. Mr. Grafstrom informed the Executive Committee that the next steps would involve taxpayer and staff education. He also thanked the city and town staff who had been instrumental in this process.

Mr. Grafstrom said that the last tax return processed by cities and towns would have been December 2016 in terms of collections; anything from January 2017 moving forward would be handled by the Arizona Department of Revenue. Cities and towns will still be able to do audits going forward under the auspices of DOR.

5. REPORT FROM BUDGET SUBCOMMITTEE

President Tibshraeny welcomed Mayor Thomas Schoaf to provide a report from the League Budget Subcommittee.

Mayor Schoaf directed the Executive Committee members to the proposed budget as included in their meeting packets. Mayor Schoaf indicated that the major differences in the budget for the next year were in the areas of salaries and benefits for League employees, stating that the increase is due to the League being at full staff and potentially adding one additional employee. He indicated that benefits were being driven through increase in health insurance.

Mayor Schoaf said that proceeding with this budget, the Committee would be budgeting with a \$33,000 deficit, however, the Subcommittee consistently budgets small amounts of negative revenues each year and typically brings it back every year through League Annual Conference funding and having expenses under what is budgeted to continue to build reserve funding.

Mayor Schoaf also said that the Committee looked at the dues schedule as related to the proposed budget and selected an option that would generate nearly an extra \$100,000 in dues revenue, creating about a 3-5% increase for each city's dues.

Mayor Jonathan Rothschild moved to approve the budget and dues schedule as adopted by the League Budget Subcommittee; Mayor Mark Mitchell seconded the motion and it carried unanimously.

7. PUBLIC OPINION SURVEY UPDATE

President Tibshraeny welcomed League Executive Director Ken Strobeck to provide an update on the League public opinion survey.

League Executive Director Strobeck reminded the Executive Committee that a public opinion survey review committee was created through discussion at a prior Executive Committee meeting. The committee had met to review the draft survey instrument as created by HighGround. The committee made suggested changes and revised version of the survey was

provided to the Executive Committee in their meeting packets. Assuming no other changes, HighGround would proceed with executing the survey.

8. RESOLUTION OF APPRECIATION

President Tibshraeny recognized former Executive Committee member Gerald Nabours for his service to the League Executive Committee and read a Resolution of Appreciation.

Mayor Doug Von Gausig moved to pass the Resolution of Appreciation for former Flagstaff Mayor Gerald Nabours; Mayor Bob Rivera seconded the motion and it carried unanimously.

Seeing no further business, President Tibshraeny adjourned the meeting at 12:10 p.m.


EXECUTIVE DIRECTOR


PRESIDENT