

MINUTES

LEAGUE OF ARIZONA CITIES AND TOWNS

EXECUTIVE COMMITTEE MEETING

Wednesday, August 23, 2017 at 11:45 a.m.
Hilton El Conquistador Resort, White Dove Room
10000 North Oracle Road
Oro Valley, 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

Daryl Seymore, Mayor, Show Low

Doug Von Gausig, Mayor, Clarkdale

Rick Mueller, Mayor, Sierra Vista

Lana Mook, Mayor, El Mirage *

Sharon Wolcott, Mayor, Surprise

Linda Kavanagh, Mayor, Fountain Hills

Mark Mitchell, Mayor, Tempe

Jenn Daniels, Mayor, Gilbert

Bob Rivera, Mayor, Thatcher

Jerry Weiers, Mayor, Glendale

Jonathan Rothschild, Mayor, Tucson

Georgia Lord, Mayor, Goodyear

Douglas Nicholls, Mayor, Yuma

*Not in Attendance

+ Attended via phone

President Jay Tibshraeny called the meeting to order at 11:57 a.m. He invited the Executive Committee to join him in the Pledge of Allegiance.

1. REVIEW AND ADOPTION OF MINUTES

Mayor Bob Rivera moved to approve the minutes of the May 12, 2017 Executive Committee Meeting; Mayor Linda Kavanagh seconded the motion and it carried unanimously.

2. PSPRS UPDATE; NEW LEAGUE STAFF MEMBER

President Tibshraeny asks Executive Director, Ken Strobeck, to introduce new League Staff Member, Nick Ponder.

Mr. Strobeck discussed the importance of PSPRS to cities and towns in terms of dealing with the new Tier 3 and the unfunded liability from Tier 1 and Tier 2. He reminded the Executive Committee of the League's involvement over the past two years with SB1428 and SB1063 this past session and other bills associated with implementing the new tier. The League has still received a large number of questions in regard to how to manage the debt, how to control it better, who is watching the PSPRS board, among other questions. In order to better handle these issues for our cities and towns, the League hired Nick Ponder. Mr. Strobeck noted Mr. Ponder's experience with the New York fire pension system as well with ASRS. A lot of people look to ASRS as best practices when it comes to how public retirement systems should operate. Executive Director Ken Strobeck invites League Pension Policy Analyst Nick Ponder to give the PSPRS update.

Mr. Ponder informed the Executive Committee of the League's top priorities in regard to the pension systems. He discussed the Tier 3 Implementation and how it will affect the current system. Mr. Ponder then discussed the ad hoc study committee established by Speaker of the House, J.D. Mesnard. Mr. Ponder indicated there had been three meetings thus far and he will be attending any additional meetings moving forward to remain informed on the issues being discussed. He noted that the idea to repeal the Constitutional pension clause will likely not be beneficial to Tier 1 or Tier 2 employees and that overall, it would be unsuccessful due to extensive case law and other factors. Mr. Ponder will continue to monitor the progress of the committee.

Mr. Ponder reminded the Executive Committee of the bills related to the pension system. In the most recent session, SB1063 which confirmed the 50/50 employer/employee split and established risk pools, and HB2485 which allows employer to switch from a 20-year amortization period to a 30-year amortization period. Mr. Ponder advised against making the switch as it will extend payments and interest an additional 10 years, costing the employer more in the long-run. If there is a situation where an employer would need to spread out the payments, this bill allows you to do so.

Lastly, Mr. Ponder explained the Hall and Parker refunds. The case of Hall was in regard to Elected Officials whereas Parker was in regard to Police and Fire. When the decision for Hall was reached, the PSPRS board voted to apply the decision to Parker. The interest to be paid in the case of Parker remains unknown. Mr. Ponder notes that some cities/towns have started to pay out interest in advance at a rate they assume will be close to the actual interest rate. The post-judgment interest for Parker should be decided in October. Mr. Ponder also noted that the League has discussed, and would welcome feedback on, establishing a monthly pension call to keep members updated on pension issues as well as the makeup of the PSPRS board as it has increased from seven to nine members.

3. CONSTRUCTION SALES TAX UPDATE

President Tibshraeny welcomed Legislative Director Patrice Kraus to report on the League Construction Sales Tax Update.

Ms. Kraus reminded the Executive Committee of changes made in 2013 in an effort to simplify the TPT collection process which included Maintenance, Repair, Remodel and Alteration

(MARRA) system. This system has created a lot of confusion in the industry and seems to be the driving force for change at the legislature. The industry is opportunistic and is looking to make changes beyond the MARRA system. Ms. Kraus reminded the Executive Committee of the most recent construction sales tax bill, HB2521 sponsored by Representative Cobb. Even though this bill was unsuccessful in solving the problems of the industry, and was never brought to Committee of the Whole, Representative Cobb remains intent on this idea moving forward.

If HB2521 had passed in the 2017 Legislative Session, it would have eliminated prime contracting as we know it and replace it with a materials only tax plus an excise tax. The positive news is the work done by the League on the Construction Sales Tax Taskforce was used extensively, particularly as it pertained to the financial impact of the bill. Tax Policy Analyst, Lee Grafstrom, had calculated a loss of approximately \$150 million annually to the state. After meeting with JLBC, they came back at about \$141 million and agreed with our methodology. These numbers did not include lost revenue at the local level. After these findings, it was incredibly difficult to move this bill forward.

In addition to revenue loss, there was a section of HB2521 that would have implemented a revenue sharing scheme based on building permit values. Ms. Kraus noted this was an issue because different cities use different valuation tables and some construction activities do not require building permits at all. It was communicated that this would be an issue. However, Representative Cobb put out a request for information. The League is in the process of gathering this information from cities and towns and will be providing Representative Cobb with that information in the next two weeks. Ms. Kraus informed the Executive Committee that the League continues to meet with representatives from the construction industry. While there is not a lot of unity from the industry as to what changes are most important, we continue to work towards a solution.

4. SB1487 DEVELOPMENTS

President Tibshraeny introduced League General Counsel Christina Estes-Werther to report on the developments regarding SB1487.

Ms. Estes-Werther informed the Executive Committee that there has been a ruling in the SB1487 case against the City of Tucson. She explained there was a question if the court would accept jurisdiction. In the court's opinion, the legislation was written clearly and mandates jurisdiction. The court views it as expanding their original jurisdiction. Moving forward, they will be accepting similar cases. Another question was in regard to separation of powers. There was question whether or not there was a violation of the separation of powers when the legislature mandates that the Attorney General has to investigate, make a determination, and find one of three outcomes, and is then required to take further action. The court is being mandated to take these cases, which again the City alleged is a violation of separation of powers. The court disagreed with all of those arguments and found that it was within the Attorney General's executive powers to follow the conditions set by the legislature and that the Attorney General was simply giving an opinion that is later resolved by the courts.

Ms. Estes-Werther pointed out that even though there was a bond requirement stated in the legislation, it was not enforced by either party or the court. While the courts did not say it was unconstitutional, it appears unenforceable and the court found it is punitive in nature.

The underlying issue had to do with the firearms and whether or not they were property or if they were subject to state law under police powers. The court agreed with the State that the law came from police powers and was considered to be a state-wide issue; they ruled State law superseded the charter city ordinance. Ms. Estes-Werther noted Justice Bolick's concurring opinion, which sought to overturn the legal precedent of how we evaluate charter city authority by essentially throwing out the Strode case that held the provisions of the charter supersede laws of the state when there is a conflict that is of local interest. Fortunately, other justices disagreed with his opinion.

Ms. Estes-Werther noted there are certain issues that were not addressed: the Attorney General not only wanted the courts to side in their favor, but also asked to take the City's state shared revenue as penalty, and the court did not discuss this at all. The courts essentially said the city ordinance is void and did not go after the city for their state shared revenue, which is good news. The bond provision, which is also seen as punitive, was not enforced. There are certain provisions in the law that allows the Attorney General to go directly to the State Treasurer to withhold shared revenue from the city in question. In such circumstances, a city would be able to challenge that opinion.

There was a Superior Court case which was stayed as we waited to hear from the Supreme Court. Most of the matters are resolved by the Supreme Court decision and the lawsuit could be dismissed but we will have to wait for Tucson and follow their lead. There are currently no other pending investigations or court cases.

5. LEAGUE DIRECTOR'S REPORT

President Tibshraeny welcomed League Executive Director Ken Strobeck to present the League Director's Report.

Mr. Strobeck discussed the League's interim activities including winning the Best Industry Trade & Professional Association from the Arizona Capitol Time's Best of the Capital Awards. Mr. Strobeck also noted staff changes as Amy Price moved to the Town of Gilbert and the additions of Nick Ponder and Emily Webb.

Mr. Strobeck mentioned the League Legislative "Road Show" presentations, as well as the New Laws Report which is written at the end of each legislative session, in addition to regularly scheduled publications. There are a number of workgroups taking place over the interim such as Construction Sales Tax, Public Utility Easements, Group Homes, etc. League and Affiliate Groups/Meetings and Conferences for city clerks, finance directors, managers were also executed. The binder also contains information regarding assistance provided to cities, conferences attended by staff since the session ended and the Amicus briefs filed by the League.

Lastly, Mr. Strobeck discussed the League statement in response to the Goldwater Institute/ACLU paper on City Courts. He noted that the League was not contacted before the paper had been published.

Executive Committee members clarified issues discussed in the Goldwater Institute/ACLU paper on City Courts and Mayor Giles inquired about a more aggressive rebuttal.

6. RESOLUTIONS

President Jay Tibshraeny presented the Resolution in Memory of former League Executive Director Jack DeBolske.

Mayor Mitchell moved to pass the resolution; Mayor Lane seconded the motion and it carried unanimously.

President Jay Tibshraeny read the Resolution of Appreciation for Prescott Valley Mayor Harvey Skoog and noted his longtime service to the League and to his local community.

Mayor Rivera moved to pass the resolution; Mayor Rothschild seconded the motion and it carried unanimously.

President Jay Tibshraeny read the Resolution of Appreciation for Prescott Mayor Harry Oberg.

Mayor Nexsen moved to pass the resolution; Mayor Nicholls seconded the motion and it carried unanimously.

Seeing no further business, President Tibshraeny adjourned the meeting at 12:54 p.m.



EXECUTIVE DIRECTOR



PRESIDENT