

MINUTES

LEAGUE OF ARIZONA CITIES AND TOWNS

EXECUTIVE COMMITTEE MEETING

Friday, May 11, 2018 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

Vice President

Mark Nexsen, Mayor, Lake Havasu City*

John Giles, Mayor, Mesa
Satish Hiremath, Mayor, Oro Valley*
Cathy Carlat, Mayor, Peoria

Treasurer

Christian Price, Mayor, Maricopa

Daniel Valenzuela, Councilmember, Phoenix*
Gail Barney, Mayor, Queen Creek+
W.J. "Jim" Lane, Mayor, Scottsdale

Doug Von Gausig, Mayor, Clarkdale*

Daryl Seymore, Mayor, Show Low

Lana Mook, Mayor, El Mirage*

Rick Mueller, Mayor, Sierra Vista

Coral Evans, Mayor, Flagstaff

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 10:03 a.m. He invited Mayor Price to lead the Executive Committee in the Pledge of Allegiance.

President Tibshraeny presented items 1 and 2 under a consent agenda.

- 1. REVIEW AND ADOPTION OF MINUTES**
- 2. BMO HARRIS P-CARD RESOLUTION**

Mayor Bob Rivera moved to approve the consent agenda; Mayor Rick Mueller seconded the motion and it carried unanimously.

3. LEGISLATIVE POLICY DISCUSSION AND UPDATE

President Jay Tibshraeny welcomed League Executive Director Ken Strobeck who informed the Executive Committee that the second regular session of the 53rd Arizona Legislature adjourned Sine Die on May 4 at a little after midnight. He then welcomed League Legislative Director Patrice Kraus to provide a policy discussion update.

Legislative Director Patrice Kraus thanked staff, including League contract lobbyists, public relations as well as intergovs, the Executive Committee and those who participated in the Monday morning legislative calls.

Ms. Kraus informed the Committee the general effective date will be August 3 and that with over 1,200 bills introduced this session, League staff tracked over 200. Ms. Kraus then discussed some of the larger issues that were brought up during the session. She indicated that several major issues including teacher pay, digital goods, VLT/HURF funds, opioids and school safety had been addressed.

Legislative Director Patrice Kraus discussed a number of bills concerning from the 2018 session regarding HURF funds. Highway Safety fee was created which is anticipated to generate \$91 million in VLT to fund DPS. With this fee, HURF sweeps will drop from \$99 million to \$15 million in FY19. The net increase to cities and towns is \$12 million, which is \$6.7 million more than last year.

TPT, digital goods and services:

Ms. Kraus then discussed bills pertaining to TPT, digital goods and services (SB 1392 and HB 2479). Deputy Director Tom Belshe and League Tax Policy Analyst Lee Grafstrom were a part of an interim committee where the goal was to produce a bill that was revenue neutral and wanted to update legislation on what is and what is not taxable in terms of digital goods. When the bill was introduced there were eight new exemptions that were established in the bill leaving a net potential loss of \$48 million to cities and towns and \$121 million to the state and Prop 301 funds to schools. Ms. Kraus informed the committee how difficult this data is to gather, Lee and his team did a great job. She also noted that the cities were instrumental in getting us information in a timely fashion giving us the ability to provide numbers. These numbers were met with stark criticism; however no one had better numbers and could not provide numbers. We did offer a couple of compromises throughout the year, but those were rejected by the Arizona Tax Research Association (ATRA) and leadership. One of those would have clarified what is taxable and would have been revenue neutral. The issue that was outstanding would have been in regard to data centers. Currently, data centers are exempt from the majority of taxes other companies must pay. The League hopes to use this interim to conduct an economic analysis on data centers so we are prepared for this issue next year.

Prime Contracting:

Ms. Kraus explained there have been complaints from contractors that it is very difficult to comply with the law because of MRRA (maintenance, repair, replacement and alteration). SB 1409 would have that eliminated “alteration” altogether. This bill ran into problems because the House Rules attorney said this would trigger a Prop 108, therefore needing a super-majority vote in both chambers. It also garnered opposition from ATRA, the homebuilders, multi-housing, etc.

The final version of the bill ended up eliminating the qualifiers on “alterations” which means all commercial contracts under \$750,000 are considered an alteration. There may be a small impact to cities and towns but Staff are hopeful this change will put the issue to rest. Ms. Kraus also noted that Representative Regina Cobb received an appropriation of \$75,000 to study the issue of non-compliance in construction sales tax. Depending on the outcome of the study, this may or may not be the end of the issue of construction sales tax.

Home-based Businesses:

This bill was brought forward by the Goldwater Institute, Free Enterprise Club, Institute for Justice and Americans for Prosperity. These organizations were very organized this session and brought forth a number of bills including this one regarding home-based businesses. This bill would have created a two-tier system for home-based businesses. If you were considered a “no-impact” business, which was defined in the law, the city/town would have no regulatory authority over the business except for public health and safety. It was said noise or nuisance ordinances could be used to regulate this issue, but because there was another level of the type of business, employers could move between the two levels by adding or eliminating an employee. Ms. Kraus thanked the City of Phoenix and Tempe for engaging their neighborhood groups on this issue. Staff believes putting state statutory authority on home-based businesses would invite lawsuits and new SB 1487 claims and the League also believes neighborhoods are more properly in the purview of local communities.

Food Trucks:

Another issue that this new coalition brought forward was food trucks. Legislative Associate Tom Savage was the lead on this bill and worked create some standardization that food truck operators could rely from city to city on certain baseline requirements they had to meet. The League did try to maintain local control regarding residential areas and also worked on some issues with parking. Ms. Kraus noted that are issues may need to be revisited; one of those issues being the fingerprinting requirement some cities have, and how to make the licensing process more efficient. Representative Kevin Payne, a food truck owner himself, has committed to work closely with the League if there need to be changes with this bill in the future.

Occupational Licensing:

This issue came about in the 2017 session and would have preempted cities and towns from issuing any new occupational licenses or collecting any type of licensing fees. Due to the last minute nature of this bill, the League was able to defeat the 2017 version with the commitment to work on the issue moving forward. This year a compromise was reached that requires cities and towns to hold a “sunrise hearing” on new occupational licenses they want to impose and demonstrate that the regulation is necessary for public health and safety. Then we have to revisit these new ordinances in a “sunset” process every five years to ensure they are still relevant. It was also agreed that any existing licenses will be reviewed in that five year period. This bill has passed and is awaiting the signature of the Governor.

Cable Operators:

Next, Ms. Kraus discussed a bill brought forth by Cox Communications which established a uniform video service license and allows cable companies to terminate existing franchise license agreements. After January 1, 2020, it essentially establishes a license that is pro-forma and does

not require any kind of council approval process and moves any cable-related disputes to the Office of Administrative Hearings. The bill did maintain control of the right-of-way and most cities saw this as the most critical issue. This bill has passed and is awaiting the Governor's signature.

SB 1487 Reforms:

Ms. Kraus explained that the League believes SB 1487 needs reform and worked with the Attorney General's office to craft a package of reforms. The intention was to increase the timeline for the Attorney General and cities/towns to respond, give cities/towns access to the courts in the event of a "does violate" finding whereas currently only the Attorney General can take an action to the Supreme Court under a "may violate" finding and lastly, that the legislator making the claim must come from the district in which the city is located so they would be responsible to their own voters. This provision was rejected immediately in committee, and in fact the bill did not even make it out of its Senate committee. There was a later attempt by the AG to amend the language to provide more time for preparation of a response to a claim, but it ultimately failed also. The League plans to work on this issue in the future.

Municipal Court Bills:

Legislative Director Patrice Kraus reminded the Executive Committee of an investigative report the Goldwater Institute had published last year. While the findings were flawed and based primarily on experiences outside of Arizona, the report resulted in a number of bills this legislative session. One of these bills would have allowed any municipal court decision to be appealed. Another bill would have taken funds that were in excess of an arbitrary cap. A third bill would have required municipal court judges to be retained like those of the Superior Court. All of these bills failed to pass but it is possible we will see similar bills in the next legislative session.

PTSD Counseling:

Ms. Kraus explained that League Pension Policy Analyst Nick Ponder worked on this issue. The original bill was extremely broad and would have required employers to pay for unlimited counseling visits, pay the salary of an employee who is unfit for duty for an indeterminate amount of time, and an employee could also take up to two paid years off of work prior to the determination of a diagnosis with PTSD. Ms. Kraus informed the Committee that the final language of the bill would increase the number of employer-paid visits from 12 to 36, limit the types of doctors who could perform treatment to psychiatrists and psychologists and public safety employees can take up to 30 days off with pay but must first exhaust all other existing leave before that is available. This bill has been signed by the Governor.

RESOLUTIONS

Sober Living Homes:

Ms. Kraus reminded the committee that this has been an issue in local governments for years and is difficult to regulate since it is protected by federal housing laws and other statutes. An interim task force generated pressure to achieve a statewide licensing scheme through DHS which is what this bill does. It has been signed by the Governor.

Local Campaign Filings:

Legislative Director Patrice Kraus informed the committee this resolution was brought forward by the City of Peoria. Local candidate races usually result in spending small amounts of money and the previous statute was written to say no reporting was required until \$1100 has been spent in a race, with that figure increasing along with the rate of inflation. This bill lowers the threshold to \$500 and that does not escalate over time. In addition, there had been a fee for using the campaign finance system at the Secretary of State's office which is non-operational, and has now been eliminated. This bill has been signed by the Governor.

Campaign Fund Transfers:

Ms. Kraus informed the committee this resolution was brought forward by the City of Maricopa. This bill would have allowed local elected officials to use their campaign funds for races at the State level. She noted this bill had gained some traction despite serious opposition but in the end failed to pass.

Street Light Improvement Districts:

The League has been working to get consolidated street light improvement districts for many years with opposition from the Arizona Tax Research Association (ATRA). This bill reduces costs to taxpayers and this year, Legislative Associate Tom Savage worked with ATRA on a compromise to allow for the consolidation of street light improvement districts or the ability to add an additional territory to an existing street light improvement district. This bill has been signed by the Governor.

Special Event Liquor License Approvals:

Ms. Kraus informed the Committee that this resolution was brought forward to make the process for approving special event liquor licenses more efficient for the clerks by not requiring the approval of the council. Legislative Associate Alex Vidal was able to work this provision into the Liquor Omnibus and negotiate other items in the omnibus to be sure the League was in support. This bill has been signed by the Governor.

Legislative Director Patrice Kraus mentioned a number of bills the League worked to fix over the 2018 Legislative Session including issues on private school zoning, civil traffic violations and government property abatement (slum and blight). She also highlighted a number of bills that failed to pass this session such as; Partisan Municipal Elections (HB 2032), Photo Radar Ban (HB 2208), Fire Flow (SB 1153) and Fire Sprinklers (SB 1093). Ms. Kraus noted several other bills of interest including TPT Online Lodging equity, EORP Employer Contributions, and Local Food Tax/Discriminatory Soda Tax. Ms. Kraus also informed the committee of issues to be aware of for next session such as Elections, Impact of Voter Initiatives and Potential 1487 Claims.

Executive Director Ken Strobeck then welcomed League General Counsel Christina Estes-Werther to provide a brief update on SB 1487.

General Counsel Estes-Werther informed the Executive Committee that Representative Darin Mitchell had filed a SB 1487 claim last month against the City of Sedona for their business license requirements for short-term rentals. Representative Mitchell's claims that the City of

Sedona's is in violation of state law because short-term rentals were not treated the same as their long-term rentals.

The Attorney General found the business ordinance in Sedona does not actually violate the short-term rental statute; however, the AG did feel there was enough of a connection that there was a violation in state law under the long-term rental statute.

Ms. Estes-Werther informed the Executive Committee that the City of Sedona had approximately three weeks to resolve the issue and indicated that through discussions with their city attorney, the Sedona City Council would be meeting to discuss and they would likely not fight the AG's decision. She reminded the Executive Committee that this situation exemplifies one of the challenges of SB1487, which does not provide any recourse for a city or town to contest the decision of the Attorney General.

Ms. Estes-Werther also reminded the Executive Committee that at the February meeting she had mentioned a claim that had been filed against the City of Tempe and that the Attorney General had yet to file a special action on this.

4. FY 19 LEAGUE BUDGET

President Jay Tibshraeny welcomed Mayor Thomas Schoaf, Budget Subcommittee Chairman to present on the proposed FY19 League Budget.

Mayor Schoaf reminded the Executive Committee that at the February Executive Committee Meeting, they had received and reviewed a copy of the working FY19 budget. The proposed budget has not changed since that time.

Mayor Schoaf informed the Committee that the FY18 budget had originally budgeted for a deficit of \$33,000. However, the budget ended up having excess revenue of \$250,000 over expenditures, specifically because the Annual Conference revenue received was much higher than anticipated.

In FY19, the proposed budget shows an expected \$172,000 deficit. He reminded the Executive Committee that there had been prior discussions regarding the League building and the cost of renovation or repair. The Executive Committee had previously discussed putting funds aside within the budget items to allow for necessary repairs. This year, the current HVAC system being used for the League building will need to be replaced. The Budget Subcommittee is proposing a \$180,000 reserve fund expenditure to cover the cost of the HVAC system. Because of this one-time expenditure, the budget currently sits at \$172,109 in expenditures over revenue.

Mayor Schoaf indicated that this budget still leaves League reserves greater than what was anticipated for 2017.

Mayor Schoaf motioned to approve the FY19 League Budget as presented; Mayor Ed Honea seconded the motion and it carried unanimously.

5. LEAGUE CONFERENCE

President Tibshraeny welcomed League Communication and Education Director Matt Lore to present an update on the 2018 League Annual Conference.

Mr. Lore informed the Executive Committee that the 2018 League Annual Conference would be held at the Phoenician Resort this year, the first time the League Annual Conference had been held at this particular location.

He said that registration for the Annual Conference and the room block at the conference hotel would be open the week of May 21. He reminded the Executive Committee that registration materials will be sent to the Executive Committee and staff members first. He encouraged Committee members to register and secure rooms as soon as they receive information that they are available as the conference hotel room block does fill up quickly.

In addition to registration, Mr. Lore discussed the Annual Conference Sponsorship Program. He indicated that the target sponsor revenue is \$200,000 and that revenues received from sponsors thus far have reached nearly half this amount. He reminded the Committee that Annual Conference revenue is the second-largest revenue source for the League and sponsorship is a large component, as it helps keep costs for the conference down as well as League dues.

Mr. Lore asked the Executive Committee that if they had any organizations within their cities and towns they felt would be interested in sponsoring the League Annual Conference, to reach out and provide them with the sponsorship brochure or forward their information to League staff.

Mayor Honea asked Mr. Lore about the rooming at the conference hotel and what availability might be like. Mr. Lore informed the Executive Committee that it was likely it would be easier to secure rooms at the Phoenician than it had at the Hilton El Conquistador in 2017, as the hotel has more rooms and the conferences in the Valley typically do not see as many room reservations. Mr. Lore suggested putting together a Committee to discuss the rooming process for future conferences.

6. REPORT ON INCORPORATION

President Tibshraeny invited League Deputy Director Tom Belshe to provide a report on incorporation presentations by League staff.

Mr. Belshe told the Executive Committee that incorporation assistance is just another service that the League provides and he wanted to share with the Committee the process for how incorporation presentations occur. He indicated that there is not a state agency that provides this service or is familiar with the incorporation process, so the League decided many years ago to fill the void and provide this service as we serve as an accurate and unbiased source of information.

Mr. Belshe informed the Committee that the process of providing incorporation information to an area usually begins with an inquiry from a proponent wanting incorporation in a particular area. After the initial outreach, League Staff will travel to the area to address a larger group of proponents and often includes a public meeting. During this meeting, the League will address the process and methods of incorporation, responsibilities of a new city or town, revenue structure and the pros and cons of incorporating a particular area.

Mr. Belshe noted that after incorporation, the League will assist communities with starting up, offering assistance with providing necessary ordinances and providing sales tax, staffing and budgeting information. He also provided information on the various communities where the League had previously provided incorporation presentations.

Following Mr. Belshe's presentation, League Executive Director Ken Strobeck provided the Executive Committee with a full list of incorporated cities and towns in Arizona and their years of incorporation.

Seeing no further business, President Tibshraeny adjourned the Executive Committee meeting at 11:34 a.m.



EXECUTIVE DIRECTOR



PRESIDENT