

***PLEASE NOTE: Since the Glendale City Council does not take formal action at the Workshops, Workshop minutes are not approved by the City Council.**



**MINUTES OF THE
GLENDALE CITY COUNCIL WORKSHOP SESSION
Council Chambers – Workshop Room
5850 West Glendale Avenue
August 18, 2009
1:30 p.m.**

PRESENT: Mayor Elaine M. Scruggs, Vice Mayor Manuel D. Martinez, and Councilmembers Joyce V. Clark, Steven E. Frate, Yvonne J. Knaack, and H. Phillip Lieberman

ABSENT: Councilmember Goulet

ALSO PRESENT: Ed Beasley, City Manager; Pam Kavanaugh, Assistant City Manager; Craig Tindall, City Attorney; and Pamela Hanna, City Clerk

1. FY 2010 LEAGUE OF ARIZONA CITIES & TOWNS RESOLUTIONS

CITY STAFF PRESENTING THIS ITEM: Ryan Peters, Intergovernmental Programs Administrator

This is a request for the City Council to review and provide guidance on the proposed resolutions which will be voted on at the September 1, 2009 League of Arizona Cities & Towns (LACT) Resolutions Committee meeting.

The proposed resolutions provide the basis for the annual League of Arizona Cities & Towns Municipal Policy Statement. Many of these resolutions will be brought forward to the Council for adoption in the City of Glendale FY 2010 Legislative Agenda.

Each year, the LACT requests draft resolutions from all municipalities for discussion by the League Resolutions Committee, a committee on which the Mayor sits as the Glendale representative.

Resolutions approved by the League Resolutions Committee will become both part of the LACT's Municipal Policy, and draft legislation to be introduced during the upcoming legislative session.

Traditionally, LACT chooses five of the approved resolutions as the priorities for the next legislative session by seeking guidance from each member of the committee. Municipalities are expected to support and advocate for these five resolutions as part of our collective municipal legislative agenda.

Staff is requesting Council to provide policy guidance on the proposed League Resolutions.

Mr. Ryan Peters, Intergovernmental Programs Administrator, provided an update on the State Legislature. He stated the bulk of the budget has already passed and was nearly identical to the one previously vetoed in early July. He noted this last portion of the package did not contain the sales tax increase and was uncertain if the Governor will sign it. Mayor Scruggs asked if they had been able to find additional money to create a balanced budget. Mr. Peters noted he suspected the budget will not be balanced and they might have to look for additional cuts to the budget late in the year. Mayor Scruggs said that revenues were coming in 18% lower than last year. She added the state had already embarked on one time fixes and she was concerned about next year's budget when revenues were already coming in lower than last year. Mr. Peters agreed.

Councilmember Lieberman asked if the Governor was likely to veto this last portion of the budget since it only needed two additional votes for the sales increase portion. Mr. Peters stated she might veto it again; however, it was unknown at this point. Mayor Scruggs discussed how President Burns has moved his position since the last regular session on the sales increase issue. She asked if this section of the budget included additional cuts in state services below what was being offered now. Mr. Peters indicated it was nearly identical to the earlier version without the revenue enhancement component. He noted that the expectation is the budget will have to be modified later in the year. Mayor Scruggs mentioned reading in news reports that the treasury will be depleted in five days or less and the state could not obtain any loans since they do not have a budget. Mr. Peters stated she was correct. Vice Mayor Martinez expressed his concern about the state possibly coming after the city's shared revenues, should this trend continue.

Mayor Scruggs asked Mr. Beasley when the Council was scheduled to review the city budget as had been decided before going on summer break. Mr. Beasley explained it was his understanding that they would only review the budget if there was a significant impact to the budget by the legislature. Mayor Scruggs stated she remembered it differently. Vice Mayor Martinez agreed and added it had been decided that they would review the budget to find ways to cope with further potential shortfalls and start planning for them. Mr. Beasley indicated that his understanding was if there were any shortfalls in the budget; staff would come back with options on how to address them. He asked Mr. Peters if the state's budget reflected any unexpected shortfalls at this point that would affect Glendale. Mr. Peters said, no. Vice Mayor Martinez reiterated his concerns and the need to start planning for the future if things continue on a downward trend. Mr. Beasley stated they could possibly provide some information. Councilmember Knaack suggested staff provide them with an update on city revenue.

Councilmember Clark stated her understanding was that once the Governor passes the state budget, the Council would review their budget to see where there were any shortfalls in terms of revenue sharing and discuss how to address it. She added that finding out where the city stands in the fall, regarding revenue, was a very good idea. Additionally, the Council could offer suggestions to make further cuts should the economy not turn around before the next budget season.

Mayor Scruggs indicated that during budget discussions, the Council had not been comfortable with the budget knowing the revenues were going to continue to decline. She was under the impression that staff would be bringing everything back to assess where the city was compared to where they thought they were going to be. Additionally, there have been new expenses that she believes they had not budgeted for as well as significant legal expenses. She wondered where the money would be coming from. Councilmember Lieberman agreed. He noted the suggestion was made that they could not finish their budget until they found out what the state was going to do. He added he was also curious about how many vacancies existed as a result of retirements.

Mr. Beasley reiterated his understanding on the budget review. He indicated that staff had already planned on bringing back the revenues aspect for review. Staff can bring additional information on the legal expenses, as well as any other inquiry the Council may have. However, a city budget was passed and approved.

Mr. Peters continued his presentation. He stated each year, the LACT requests draft resolutions from all municipalities for discussion by the League Resolutions Committee; a committee on which the Mayor sits as the Glendale representative. The proposed resolutions provide the basis for the annual League of Arizona Cities & Towns Municipal Policy Statement. Many of these resolutions will be brought forward to the Council for adoption in the City of Glendale FY 2010 Legislative Agenda. The Resolutions sub-committee recommended adopting 12 resolutions, of those some are to be combined if similar and appropriate. Resolutions 2 and 3, resolutions 4 and 5, resolutions 6, 8 and 10 were combined to form a single resolution for each respective topic area. For resolutions 2, 3, 4 and 5, the recommendation was to remain neutral. Resolutions 5, 6, 7, 8, and 10's recommendation was to support. He noted that Resolutions 6, 8, and 10 seek protection from the legislative sweeping of dedicated funds. Resolutions 12, 14, 18, and 21's recommendation was to support. Recommendation for Resolution 16 was to remain neutral. Mr. Peters concluded his summary.

Mayor Scruggs indicated that Vice Mayor Martinez will be representing the City of Glendale at the Resolutions Committee process. She asked if anyone had issue with any of the resolutions recommended for adoption that they would like remove and discussed further. She noted there needs to be at least two members agreeing to pull something off the agenda. She added any Councilmember had the option to inquire about any resolution and its recommendation.

Councilmember Clark stated she would have liked to have gone through each resolution individually. She asked to start with Resolution 1, which dealt with support of federal funding for Arizona's ports of entry, including the expansion of and improvement of all forms of federal, state and local facilities and infrastructure related to the trade into and out of the ports of entry in the State of Arizona. She stated that because the Federal government did not have any available

funds, ADOT paid for the construction of the Nogales FAST Lane and the expansion of Lukeville using state dollars to pay for federal facilities. She noted staff had offered a recommendation of neutral, when she believes this merits a recommendation of support because the state is paying for federal projects. She commented that this appears to be a no brainer and should be supported. Mr. Peters stated his agreement; however, staff had remained neutral because the feeling was that this should be placed on the federal agenda instead of the State's. Councilmember Clark agreed, however, would still like staff to offer a recommendation of support.

Councilmember Frate discussed the neutral recommendation on Resolution 2 and how the comment from staff was that the city was not significantly impacted because there was little state trust land in the city. He disagreed with the comment and cited sites around the city. Councilmember Clark commented on the amount of neutral recommendations found in the packet. She questioned why staff does not offer support of a resolution, if it does not harm the city and shows support and a united front at the League. Mr. Peters explained that the thought behind the neutral position was to not ask for too much when the state was already strained. Councilmember Clark asked if staff were to recommend support of a resolution, would they be required to take the lead. Mr. Peters indicated that on occasion, the neutral position resulted from various staff members having different opinions on a particular resolution. He added that in answer to Councilmember Clark's question on taking the lead, they would not since this was the League's agenda and all members play a supporting role. Councilmember Clark indicated that based on the information presented, she supports Councilmember Frate's recommendation of support for Resolution 2, rather than remaining neutral.

Councilmember Lieberman agreed. He stated what they do might influence others to follow. He noted that Glendale's support might be critical to another city. He recommended support of Resolutions 1 and 2.

Councilmember Knaack commented that after listening to Mr. Peters, she had a different view of how a neutral recommendation was reached. She would have liked to have known the reasons why some staff supported or opposed any of these resolutions which resulted in a recommendation of neutral. She too questioned the amount of neutrals that appeared and suggested possibly changing the format.

Councilmember Frate asked Mr. Tindall to add any pertinent information to this discussion. Mr. Tindall stated the legal department does review some of the resolutions and provides advice.

Vice Mayor Martinez asked if the departments make any recommendations. Mr. Peters explained that each respective department reviews their corresponding resolution and provides feedback on the item. He noted they receive feedback from the respective departments, other cities, and their own internal investigation regarding legal or other potential problems. He indicated that once all the information has been evaluated, a recommendation is made. Vice Mayor Martinez believed there was some merit to Councilmember Clark's suggestion of reviewing the neutral recommendations. Councilmember Clark commented it was her hope that staff revise this process and perhaps provide them with further information next year.

Mayor Scruggs stated the sub-committee process was fairly new and she had not yet participated in one. Therefore, she had some questions on the process. She asked if the recommendations from staff come before or after the recommendations from the sub-committee process. Mr. Peters explained the timing of the committee meeting and Council workshops, as well as the difficulty in obtaining amended versions. However, staff did have recommendations on several resolutions prior to the sub-committee meeting. Mayor Scruggs agreed with Mr. Peters on the difficulty in getting the resolutions to the Council in a timely manner. Mayor Scruggs questioned how the process worked at the League level. Mr. Peters stated staff had access to the resolution package as a whole, days or weeks prior to the sub-committee meeting. He stated that staff weighs in and bounces ideas off League staff. He noted at the meeting it was only the committee members that were allowed to speak. However, League staff was allowed to speak on behalf of a city that had some concerns about a specific resolution. Mayor Scruggs reiterated that city staff discusses any issues and concerns with League staff, which in turn transmits those concerns to the resolution sub-committee. Mr. Peters stated she was correct. Mayor Scruggs noted this process will not change because of the sheer volume of the amount of material involved.

Councilmember Clark reiterated her concern on the amount of neutral recommendations on many resolutions. She inquired why staff does not offer support of a resolution if it did not harm the city and show support for other entities. She noted that after hearing the city does not take the lead by supporting a resolution; why not support other cities if it's not hurting the City of Glendale. She added if the situation was reversed, Glendale would be asking for their support.

Mayor Scruggs explained the way the process works is that they would be voting to support the resolution once it goes to the League, regardless of the neutral position, unless it is decided ahead of time to pull the item. She noted a neutral vote was a yes vote. The resolutions that are not supported, will be voted as a no, as will the support resolution with a yes vote. Councilmember Clark asked if these resolution items will be on the next Consent Agenda. Mayor Scruggs replied, yes.

Councilmember Knaack asked if anyone from Glendale has sat on the sub-committee. Mayor Scruggs stated she has had the opportunity to sit on the committee, but has not. The committee is a small committee that meets in the summer. She explained it is composed of committee members from different areas of the state in order to represent a balanced outlook.

Mayor Scruggs asked if anyone had any other issues with any of the resolutions. Councilmember Clark stated she would like to revisit Resolution 15's recommendation of not support. She explained this dealt with asking the legislature to allow the formation of a service maintenance district in a developed community in the event of HOA insolvency. She indicated that staff's comments were that there were other viable options to be pursued based on HOA insolvency. She inquired as to what they were. Mr. Eric Strunk, Community Partnerships Director, explained the options were limited to the Code Compliance Division and the Home Owners Training Academy, which is open to residents and board members to learn to have a successful HOA. He noted that in reviewing this piece of proposed legislation, the biggest concern was this was transmitting the responsibility to the city. Councilmember Clark commented that she had not read or had that information in her summary. She added the reason she was bringing this up was because many of the HOA's were struggling as a result of the

economy and believes this might be another tool to help them through tough times. Mr. Strunk read from the resolution which mentions the city's responsibility. Councilmember Clark stated that nowhere in her material did it mention that aspect and requested that in the future they are provided with the necessary information to make an informed decision. She noted with this new information, she withdraws her suggestion and agrees with staff's recommendation. Mr. Peters interjected that one of the big concerns was this was a district of registered voters and not necessarily of property owners.

Mayor Scruggs commented that what the Council receives from staff is the information they receive from the League. Mr. Peters stated she was correct and added that in years past, when the timing was better; they actually received the original and amended versions to compare. Mayor Scruggs agreed this process has gotten very difficult with all of the seasonal breaks in committees. Mayor Scruggs wanted to make clear that staff was not withholding information from the Council.

Mayor Scruggs asked Mr. Peters if amendments could still be offered at the resolutions committee meeting. Mr. Peters stated there was an opportunity at the full committee meeting. The resolutions are not formally adopted until September 3rd at the business meeting. Mayor Scruggs made the point that at this time, they still did not have all the information on each item since there was still time to offer new language on an item. Councilmember Clark commented on how the information was somewhat confusing and not at all forthcoming. Mayor Scruggs read from the resolution information packet, indicating the items on which Councilmember Clark had questions. She discussed the difficult job staff had in regards to obtaining full information in a timely manner. Councilmember Clark indicated she would still like more information as to when staff recommends a neutral position. Councilmember Knaack agreed and asked for staff to provide more input regarding their recommendation and comments. Mayor Scruggs remarked that Councilmember Clark had made a helpful suggestion. Mayor Scruggs asked staff to include a small summary on their comments and recommendation process.

Mayor Scruggs asked if there were any other comments. Councilmember Frate remarked that he supports staff's position and recommendations. Vice Mayor Martinez commented on Resolution 15 and believes it will not be helpful. Mayor Scruggs agreed. Councilmember Clark discussed how modifying this item might be beneficial. The Council discussed the issues surrounding HOA's and their policies.

2. CRIMINAL DIVERSION PROGRAM FEE

CITY STAFF PRESENTING THIS ITEM: Craig Tindall, City Attorney and Rob Walecki, City Prosecutor

This is a request for City Council to consider the implementation of an administrative fee for cases determined by the City Prosecutor to be appropriate for a diversion program. The diversion fee will be assessed in all cases where a defendant is referred to a diversion program.

This item addresses the Council strategic goal of a city that is fiscally sound by pursuing and maintaining revenue streams that support service delivery through sound financial practices regarding infrastructure and upkeep.

Diversion programs are an alternative to traditional prosecution that focuses on behavior modification and rehabilitation through education, counseling and supervision. They are particularly useful in dealing with first time offenders. A.R.S. § 9-500.22 allows city prosecutors to establish diversion programs to provide suitable alternatives to traditional prosecution.

Diversion programs have been implemented by city prosecutors throughout the Valley and fees are routinely charged in many jurisdictions. The cost of administration and monitoring participants' progress has been absorbed by the city.

Diversion programs are excellent tools for rehabilitation, particularly for first time offenders. The diversion fee represents a modification of our business practice that will allow the prosecutor's office to recoup some of the costs of the program.

A diversion fee of \$50 per case will be imposed upon referral of a defendant to a diversion program. It is projected that this fee will generate revenues of approximately \$15,000 per year. The fee will be collected and deposited into the General Fund and will be tracked accordingly to ensure payment of future City Prosecutor expenses for case management and administration.

No additional staffing is required to implement this fee.

Consider and provide guidance to the City Attorney to bring forward an amendment to the Glendale City Code providing for a criminal diversion program fee.

Mr. Rob Walecki, City Prosecutor, summarized this item. He asked for any comments or questions.

Councilmember Frate stated he was familiar with the diversion programs for first time offenders and was in support of it. He explained many first time offenders are individuals who get caught up with the wrong crowd and just need straightening out. He indicated this program was highly effective and the rehabilitation percentage was very high. He noted the fee was a good investment for the family and offender. Mayor Scruggs asked Mr. Walecki to provide additional information for the viewing public. She also asked what was done if the defendant could not pay the \$50 fee. Mr. Walecki explained the fee could be waived if it would cause hardship to the defendant or otherwise be in the best interest of justice. He indicated last year they prosecuted approximately 11,500 cases of these an estimated 359 cases have been sent to the diversion program. He stated the decision is made by factors such as the nature of the charges, defendant's criminal history, strength of the case and the victims input and whether or not it's in the interest of justice. The kinds of cases typically sent are domestic disputes, when the victim does not want to prosecute because it would give the defendant a criminal history. This is helpful for rehabilitation and changing behavior patterns.

Mayor Scruggs inquired if defendants would still have a criminal record if they attend the diversion program. Mr. Walecki replied, no. However, if they choose not to attend, the case would go to trial and they will possibly be convicted and have a criminal history. Councilmember Frate noted his understanding that this program was only for juveniles.

Councilmember Lieberman commented this program sounds a lot like the driving school program to help drivers not get points on their record. Mr. Walecki stated these defendants would have to attend 26 to 52 weeks of counseling with monitored reports on their progress.

Vice Mayor Martinez asked if this was also available for felony acts. Mr. Walecki responded it was only for misdemeanor infractions.

Councilmember Clark asked how the 26 to 52 weeks of counseling were paid for. Mr. Walecki replied it was the defendant's responsibility and starts at \$20.00 per session, in addition to the diversion fee. The fees help cover the amount of work done on these cases by the legal department, such as the monitoring and office maintenance. Councilmember Clark commented that when looking at the fee by day, this program was very cheap for the defendants. Mr. Walecki explained this was a rough estimate and was comparable with other cities. Councilmember Clark asked which city's fee comes closer to paying for the additional services provided. Mr. Walecki explained theirs was a rough estimate, putting them in the middle. The city that comes closest to covering most of their fees was Scottsdale, with a fee of \$118.00.

Councilmember Lieberman asked who was going to pay for the additional cost of counseling and monitoring. He related stories from personal experience of how difficult running a program like this was. Mr. Walecki explained that Justice Services, with whom the city has a contract, monitors the programs. Additionally, just recently they have gone live with new computer software called Justware, where they have all the information they need at their fingertips. Councilmember Lieberman asked who will pay for the counseling. Mr. Craig Tindall, City Attorney, explained the city did not provide the counseling. The counseling services are provided by other agencies and are not issues the city or the prosecutor's office faces.

Councilmember Knaack stated her support for the diversion program. She knows people who have been helped by it. She noted this program was more preventative rather than punitive, which is why it helps. She asked what other misdemeanors used the program. Mr. Walecki replied that shoplifting would be a good example.

Councilmember Clark asked if the diversion fee would be collected and applied to the Justice Services contract. She wondered if this might increase the responsibility for Justice Services and they might ask for a larger contract fee. Mr. Walecki indicated the fee collected goes into the City of Glendale's general fund. Justice Services charges \$20.00 per session to their clients.

Mayor Scruggs asked if the City of Glendale paid Justice Services anything for this service. Mr. Walecki replied no, not that he was aware of. He noted the Glendale City Court has a contract with Justice Services.

Mayor Scruggs stated there was unanimous support for this item from the Council. She thanked Mr. Walecki for his presentation and added they had learned a lot about how this systems works.

Mayor Scruggs asked for any additional comments.

Councilmember Clark commented that on August 1, 2009, Chief Mark Burdick celebrated seven years as Glendale's Fire Chief.

As no further business was discussed, the meeting was adjourned.

ADJOURNMENT

The meeting was adjourned at 3:20 p.m.