

Sierra Vista City Council
Work Session Minutes
February 3, 2015

1. Mayor Mueller called the work session to order at 4:30 p.m. in the City Manager's Conference Room, City Hall, 1011 N. Coronado Drive, Sierra Vista, Arizona.

Present:

Mayor Rick Mueller – present
Mayor Pro Tem Bob Blanchard - present
Council Member Alesia Ash - present
Council Member Gwen Calhoun - present
Council Member Rachel Gray – present
Council Member Hank Huisling - present
Council Member Craig Mount – present

Others present:

Chuck Potucek, City Manager
Mary Jacobs, Assistant City Manager
Julie Reese, Triadvocates
Lauren Patheal, Triadvocates
Jill Adams, City Clerk

2. Presentation by Triadvocates regarding state legislative proposals affecting the City, and other related legislative priorities

Mr. Potucek introduced the staff from Triadvocates and explained that Triadvocates has been employed by the City for a number of years to primarily deal with State and Federal issues. Triadvocates provides the City every year with updates as to what is going on at the Legislature.

- Overview of 2015 Arizona State Legislature

Ms. Reese stated that at both levels of government, there is a very strong showing of republicans. At the state level there is a new governor, Doug Ducey (former State Treasurer).

Ms. Patheal briefed Council on the Ducey Administration:

- Middle Right and that is how he ran his campaign;
- Promising no new taxes,
- Big issue right now is the budget, and
- Signed his first bill that requires high school students to pass their civics tests.

Mayor Mueller asked when the bill becomes effective. Ms. Patheal stated that she is unsure but the school districts have a high level of discretion in terms of how they implement.

Ms. Patheal stated that with the new governor comes new staff and provided Council with a list of his new senior staff. There is some significant transition that is taking place within the state agencies:

- Chief of Staff – Kirk Adams is the former Speaker of the Arizona House of Representatives;
- Deputy Chief of Staff, Communications – Daniel Scarpinato, previously a writer for the Arizona Daily Star;

- Chief of Operations – Ted Vogt previously served in the legislature.

Mayor Mueller noted that Joe Cuffari was with the Military Advisory Commission and has now been moved up and is a known quantity too. Ms. Patheal stated that Rene Guillen who was previously with the Arizona League of Cities and Towns is now the Government and Transportation Policy Advisor. He is a friend to Sierra Vista and someone who understands local government well.

In response to Council Member Calhoun, Ms. Patheal stated that Hunter Moore is the Natural Resources Policy advisor who also oversees state land issues and is from Navajo. The Governor is making an effort to include individuals from outside of Maricopa County.

Ms. Patheal provided an overview of the following:

- Leadership in the House:
 - o David Gowan;
 - Speaker of the House; and
 - Double assigning a number of bills to ensure transparency;
 - o David Stevens;
 - Chairman of the Rules Committee.
- Minority leadership in the House:
 - o Bruce Wheeler, Assistant Minority Leader, who is from Tucson;
 - o Southern Arizona has good representation.
- Leadership in the Senate:
 - o Gail Griffin;
 - Chairman of the Water and Energy Committee
 - Vice Chairman of Natural Resources and Rural Affairs Committee
- Overview of Governor's budget proposal and expected progression of legislative discussion

Ms. Reese stated that February 3rd is the 23rd day of the legislative session and the hot topic is the state budget. Governor Ducey unveiled his budget plan.

Where are we at in terms of the FY 2015 Budget?

- Fiscal year began July 1, 2014 and there is a negative fund balance proposed for the General Fund;
- Big issue is that there is clearly a revenue problem because the revenue is not keeping up with the projections;
- There is also a K-12 problem due to the lawsuit against the State of Arizona from plaintiffs who were advocating on behalf of the K-12 System and Prop 301;
- The court has ruled that the State does need to provide additional funding of \$330 Million but the exact number is up for debate;
- Total is (\$520) Million problem this fiscal year budget underway.

Ms. Reese stated that if potential back payments are looked at, going retroactive over the last five-year period, that adds and additional \$262 Million. The State needs to address in the near year term \$520 Million.

Governor Ducey in his budget looked at the \$330 Million and replaced it with \$76 Million because under the previous administration beginning with Governor Napolitano, the State actually paid more than they should have and so he assumed a credit for those overpayments.

The Governor has encouraged the State Legislature to settle the lawsuit. The plaintiffs have indicated that they are willing to do so in a reasonable manner and they understand the fiscal realities that the State of Arizona faces and so hopeful that this will be taken care of in a timely manner and that the outcome of that will be a number closer to Governor Ducey's \$76 Million.

In response to Council Member Calhoun, Ms. Reese stated that it is a deliberative process that involves the courts at this point as well as the State and the plaintiffs. There is motivation to do something sooner than later particularly so that they can have some certainty for their budgeting process.

Mr. Potucek asked if this is more on the revenue side where the problem resides or on the expenditure side. Ms. Reese explained that it is truly revenue and provided the projected revenues for fiscal years 2014 and 2015 versus the actual revenues.

Council Member Huisking asked if the State actually overpaid. Ms. Reese stated that it occurred during Governor Napolitano's administration. The State did more than the minimum and so at this point the policy makers are asking for some credit for that particularly given the fiscal situation the State faces.

In response to Council Member Mount, Ms. Reese explained that the reason as to why the projected revenues versus the actual revenues are way off because unfortunately the State's economic recovery has been softer than anticipated. The economy is not performing at the level that was anticipated and a particular challenge is the individual income figure, which is half of what as projected. That is dollars that come back into the economy in the form of sales taxes. Mr. Potucek added that this has ramifications for the City particularly on the income tax side, which is coming in at about half of the projection. For State shared revenue purposes, those generally lag about two years to the City and the City will see less than robust growth in that figure.

Council Member Mount asked who developed the projections. Ms. Reese stated that there are teams of staff people at the State level, the Joint Legislative Budget Committee, the Governor's office, strategic planning and budgeting, Department of Revenue and so it is a team process; but unfortunately it is coming well below projections.

Per Council Member Huisking's request, Ms. Reese explained that the 2014 projected and actual corporate relates to federal policy. In 2013 with a federal fiscal cliff there was an incentive for corporations with their capital gains to go ahead and claim those. It was known that there would be a reduction but did not clearly catch how significant that would be, underestimated it by about 2/3.

Ms. Reese stated that the good news is that the actual year to date for this fiscal year is up over projections, 7.8% versus 5%. It is coming back; however, also of concern is the TPT. The year to date actual is half of what was projected. Mr. Potucek stated that when people talk about recovery, it is really not recovering. Ms. Reese agreed that it is really a soft recovery.

Ms. Reese displayed a graph to shows that the bulk of the general fund expenditures for the State of Arizona are to educate, medicate and incarcerate the population. Education is 41% of the general fund budget, Medicaid 22% and Corrections 11%, 74% total of the discretionary funding. Does not leave a lot left over for child safety, universities, other priorities, and transportation.

Mayor Mueller noted that the only other discretionary would be the 11% other. Ms. Reese agreed and stated that the remaining 2/3 of the budget are federal funds that flow through the State and specifically dedicated.

Council Member Calhoun asked if the budgets are different for the universities and education. Mayor Mueller stated that K-12 is the education and community colleges are small and almost weaned off the process now. They used to get a small piece.

Council Member Gray asked what entails other. Ms. Reese explained that it is Department of Real Estate, Department of Liquor Licensing, Weights and Measures, ADWR, ADOR, ADEQ and etc. More and more of the State's agencies have moved to a user funded mechanism. ADWR which uses a significant portion of their agency fees from users of the agency services.

In response to Council Member Huisking, Ms. Reese stated that user fees is a trend and continues in the Governor's proposed budget. In Governor's Ducey's budget, the specific pay for service, items two and three. The Governor as part of TPT simplification that was passed in 2013 is asking cities and towns to pay directly for services being provided by the Department of Revenue and he is assessing a \$14.1 Million operations fee that is allocated on a proportionate basis to help the State fund the Revenue Department as well a 76 cent per resident charge that is associated with the TPT Reform.

The TPT Simplification that was passed in 2013, the primary components of it were auditing and DOR reporting. This is now coming back in the budget that cities and towns are being asked to shoulder the cost.

Council Member Huisking asked about a nonprogram city. Ms. Jacobs stated that nonprogram is those cities that decide to do their own collections. Sierra Vista does not audit sales tax submittals. Usually the bigger communities audit their own and so part of the TPT proposal was that businesses only have to go to one portal to submit their taxes. The nonprogram cities were concerned that having the State be responsible for auditing that the State will not go after them deeply. Mayor Mueller added that from the business side, the people that own business i.e., Circle K's in two or three communities would get audited by the State and by a separate community and auditing standards were not the same.

Council Member Calhoun asked if the Reform change that. Ms. Reese stated that it will. Mayor Mueller stated that the State had hoped that they would have it done but DOR ran into some hiccups and it was delayed for six months but it is still being worked on to try to meet the standards by next year.

Ms. Reese stated that the City of Sierra Vista has been adopting their legislative agenda in the past for infrastructure and transpiration being a valued component of the State budget and therefore, highlighted that the Governor's budget proposes an \$89 Million fund sweep from HURF. There is also a proposed \$15 Million sweep to the Aviation Fund. That fund balances currently \$28 Million; but those aviation fund commitments are multi-year commitments and there is \$48 Million worth of commitments. Triadvocates is working with ADOT to gather more information for Council in terms of what does \$15 Million fund sweep means in terms of capacity to allocate new airport projects. The reason why the aviation fund is so important is because the City's local airport can apply to ADOT for State funding for every dollar of State local funding, averaged can be \$9 of federal investment, which is very helpful in terms of taxi ways or airport infrastructure. The Aviation fund is all user-fee based and those are fees that on an airport users pay when they purchase aviation fuel, aviation plane taxes, and things of

that nature. This is a nice user pay system that helps to facilitate trade, tourism and the military operations, all of which are critical to the economy.

In response to Mayor Mueller, Mr. Potucek stated that there are no projects with the aviation fund this year.

Mayor Mueller asked if it is the same level of HURF funds; but the City was hoping to get an additional quarter back from previous years. Ms. Jacobs stated that the level is the same as last year. Ms. Reese agreed and pointed out that there is a long history of diverting HURF funds to DPS operations and it is over a billion dollars that has been taken from highway construction.

Council Member Calhoun asked if it is possible to see where the dollars were spent. Mayor Mueller explained that the initial intent went to paying for the additional salaries for the patrolmen.

Council Member Gray asked if the Department of Revenue operations' allocation is on a population proportional basis or monies spent. Ms. Jacobs indicated that it is based on population. Mayor Mueller stated that there is a formula that has already been established and the biggest factor in that ratio is population.

Council Member Mount asked how much is totally in the HURF fund if the sweep comes up. Mayor Mueller stated that this represents 75% of what was swept from the municipalities. The City got back 25% back last year. Ms. Reese stated that in terms of the fund's balance after the allocations that have already been committed to; she will have to get back to Council on that because it is similar to the aviation fund. There might be a fund balance but it could already be committed. Mayor Mueller also noted that HURF is not just cities and counties as it is also State.

Council Member Mount stated that if the City knows what amount is being taken out before it is available and the City knows that what is available belongs to the City, then the City could start projecting out long term without having to worry about the fighting. Mayor Mueller noted that Mr. Potucek could get those numbers but the City needs to get back that 75% and that is the challenge.

In response to Council Member Huisking, Ms. Reese explained that tourism has a specific fund and that department will continue to function, provide local grants and promote the state in terms of bringing people in to spend money; but it does take a \$6.5 Million and some of that is money coming from the General Fund, \$2.5 Million and some of that is coming off the top of the tourism fund.

Mr. Potucek asked if any of the numbers reflect the impact of the increase hit to public safety retirement system at the state level. Ms. Reese stated that no, they do not at this point. There is still in an effort under way between the public safety retirement entity, the impacted parties, the state as well as the League at the table to continue to negotiate and to figure out a timeframe for going out to the voters. When Kirk Adams the chief of staff was the speaker of the house, the legislature passed a bill to address public safety retirement reform; but unfortunately the courts found it unconstitutional and said that it would require the voters of the State of Arizona to take action. At this point the discussions are related to the timing for going out to the voters.

Mr. Potucek asked if the State plans to address their share in the budget this year. Ms. Reese stated that she will have to gather some more information. Mr. Potucek stated that he had heard that the direction to the departments that had public safety retirement was to plan on taking that hit all at once this year.

- Current bills being tracked that may affect local government

Ms. Reese stated that this is still a dynamic process, there are still pieces of legislation being introduced and the Senate deadline for bill introduction passed on February 2nd but the House's deadline is on February 9th.

Ms. Patheal stated that Triadvocates identified the following key priorities:

- SB1079
 - Solid waste collection bill introduced by Senator Griffin;
 - Would enable private waste collectors to serve apartments and multi-family housing in cities that offer that service;
 - Includes a new definition for multi-family;
 - Bill went through the committee;
 - One legislator noted that she was opposed to the bill as drafted but would reconsider

Ms. Jacobs explained that several years ago, a bill was run and passed that allowed previously rural communities under 60,000 in population, if they offered refuse collection services where they were essentially a sole provider, to allow refuse haulers to come in. The point behind it was that rural communities typically did not get competition coming in and if they had to set up a whole system, they had to invest.

Several years ago, the door was opened for refuse haulers to come in and cherry pick the city's commercial customers. The City is certainly facing that competition; although the City continues to have a good number of commercial providers, especially now that the City provides recycling for the commercial providers. The City is actually getting some of the commercial providers back, i.e., the new hospital. The City is against this is because of the cherry picking concept. The point of it is that the private haulers have an opportunity to get the large dollar accounts without having to provide to an entire neighborhood and only bill one person and it is the cheap end and takes away the City's revenue and affects the system.

Mayor Mueller stated that it costs more to go to and bill individual houses and it costs less for commercial and now it looks like the apartments will also open up and the reason the City keeps rates low for the houses is because of the other two, which are less costly. If the City starts to lose corporate accounts, then the potential for the City to have to raise the residential rates is increased.

Council Member Gray stated that it is just a matter of believing in private businesses to operate with the city being able to interfere. Ms. Jacobs noted that the bill is being run by the Multi-family Housing Association.

Mr. Potucek stated that the way the bill reads, suggests that a property owner that owns residential single family rentals can also then opt out. Ms. Reese stated that the way that it is written is as a single dwelling with five or more dwelling units. It does not yet get into the single family dwelling; but it definitely creates movement towards that. There are a couple of amendments and in talking to the multifamily lobbyists; they are working with the league on:

- Amendment that states that if the multifamily complex opts out, then there is no requirement that the City let them back in.
- The second amendment is the delayed effective date, July 1, 2016.

Ms. Reese stated that with Council's direction, Triadvocates would reach out and work with the League on an amendment that allows an opt out for communities like Sierra Vista that have a dedicated landfill.

In response to Mr. Potucek, Ms. Reese stated that the bill did pass; there were a lot of concerns raised, but it does have movement out of committee. Ms. Jacobs stated that she has spoken to the League and they are working on it as best as they can; but it only affects a number of communities so it is not going to be at the top of the radar list.

Council Member Mount suggested that the City should start on working out on how to be competitive in the environment that it presents itself and just with costs. Ms. Jacobs stated that one of the things that is being done and she has talked to the League about it, is making sure that it is the same level of service. There is a difference between a single homeowner who decides to choose a vendor versus somebody who owns an apartment complex and is looking for the best price.

In response to Council Member Mount, Ms. Jacobs stated that staff is looking at the rate structure and that is one of the things that tie the City's hands because the rate structure is approved by ordinance with no flexibility. Mr. Potucek noted that Council votes on the rates which are published. What staff has typically seen is that the competitor will come in and undercut those rates. Staff does contact the commercial accounts to work with them. However, over time, if the City cannot compete on costs, it will erode the customer base to the point where residential services will probably need to go up.

Mayor Mueller stated that Council Member Mount makes a good point, if this should come about; the City needs to have an effective plan. Once the bill is passed the City can go within three miles of the city limits to provide services.

Mr. Potucek stated that there are people outside the city limits that would like recycling so that might play into the City's hands. The downside going into the County is the larger lot sizes and more mileage.

In response to Council Member Huisking, Ms. Reese stated that at this point they are working on an amendment that would provide for a July 1, 2016 effective date.

In response to Council Member Calhoun, Ms. Jacobs stated that Gail Griffin sponsored the bill and is in favor of it. Ms. Reese has discussed with her the bill and so will City staff.

- HB 2254

Ms. Patheal stated that the bill was introduced by Representative Mitchell and it would place a moratorium on establishing any new rental taxes. Additionally the bill would require cities to phase out existing residential property rental tax by a 25% reduction every year until the tax is zero out.

In response to Mayor Mueller, Mr. Potucek stated that the City's income for TPT on rental is about $\frac{3}{4}$ of a million dollars.

Council Member Gray stated that she is against this bill because right now the City is given the opportunity to implement the tax or not based on the City's needs. The State should not be making decisions on the needs of the City's local community as that is what a city council is for.

Ms. Reese stated that the bill made it out of Committee by one vote. There was a comment made by one of the majority members of the committee that she did not support the bill as drafted; but if local communities were given the opportunity to make a choice, the voters of that community, then she might consider it.

In response to Council Member Gray, Ms. Reese stated that the bill is very negative in terms of impact to the City of Sierra Vista.

Council Member Huisking stated that she believes that the citizens would believe that this is a great idea. Ms. Reese stated that interestingly this is a business tax. Council Member Mount stated that this was heavily publicized a few years ago which may come up by the Citizens' Advisory Commission, which is not popular with a variety of demographics; but suggested planning without it to make up \$747,000.

Mr. Potucek stated that the practical side of this too is the local control issue and the continued narrowing of the tax base, which has been narrowed considerably over the past decade and then puts more emphasis on the retail sales tax as the primary funding source for the operation of the city that is highly volatile due to economic conditions. Mayor Mueller noted that the City is already limited on the property tax ceiling. Mr. Mount stated that staff should be careful with that kind of a message because it is not like Gowan, Stevens and Griffin don't live in Sierra Vista. Council Member Gray noted that the decision is not simply being made by Gowan, Stevens and Griffin. The whole state legislature, a body that does not reside in Sierra Vista and is making decisions for the residents of Sierra Vista.

- TPT Reform

Ms. Patheal stated that this comes from a bill in 2013 signed by Governor Brewer which focused on three key areas:

- Auditing;
- Reporting; and
- prime contracting.

This bill deals with the actual prime contracting portion of that and there are a couple of key provisions:

- Contractors will now be able to purchase all contract materials on tax exempt basis, which includes prime contracting as well as MRRA projects;
- Materials purchased tax free for MRRA projects are taxed as they are used based on job location;
- Definition of alteration, creates thresholds for determining tax status of project for residential property and commercial property;
- Excludes roadway and other surface/subsurface projects from MRRA treatment; and
- Includes a safe harbor to protect the industry during the transition period.

Protection for good faith contracts entered into before May 1, 2015, assuming the Governor signs the bill.

Council Member Gray asked if the contractors are not going to be taxed on the purchase of the building material. Ms. Reese stated that she is correct and that is at the point of sale.

In response to Council Member Mount, Ms. Reese stated that it is all contractor purchases. Ms. Patheal stated that it is with the prime contracting and the MRRA definitions. Ms. Reese explained prime contracting and MRRA (attached).

In response to Council Member Huisking, Ms. Reese explained that it is reported to the Department of Revenue. Council Member Calhoun commented that by the same token, if the contractor buys in areas in Sierra Vista, the other areas would benefit.

Mayor Mueller stated that the bill actually prevents contractors from buying in Mexico, California, Tucson or Phoenix, and paying the local tax there and then the rural areas where they have their operations not getting anything. Ms. Reese stated that the bill has brought support throughout the business sector, from the contractors, Builder's Alliance and the League. The House Bill 2011 when passed back in 2013 was promoted as tax simplification; but the prime contracting piece was difficult to navigate so it took longer and the legislature is now coming back to consider Senate Bill 1446 and House Bill 2590.

In response to Council Member Huisking, Ms. Reese stated that the sponsor of the bills is Debbie Lasko as well as Steve Farley, Bob Worsely and Karen Fann.

Ms. Reese stated that just like it was a great Republican turn out at the State that is reflected in the Federal delegation as well. The state senators are familiar names, Senator Flake and McCain. Ms. Patheal provided a perspective on their roles:

- Senator McCain, new chair of the Armed Services Senate;
 - o New and very influential position;
 - o Relates to armed services and Fort Huachuca;
- House Armed Services:
 - o Martha McSally, Sierra Vista's representative;
 - o Ruben Gallegos; and
 - o Trent Franks

Ms. Reese stated that the City has established a great track record as the champion for Fort Huachuca through the City's collaboration with the County and Fort Huachuca 50.

In response to Council Member Calhoun, Mayor Mueller stated that he plans to talk to the senators and be able to sell to them the vital position that Fort Huachuca holds and how sequestration is affecting the community and the importance of having a real budget for the government.

In response to Council Member Mount, Mayor Mueller stated that he will be joined on the trip to Washington by the Fort Huachuca 50 President Kevin Peterson, City Manager Chuck Potucek and Cochise County Supervisor.

Council Member Mount stated that Sierra Vista needs to convey the value of Fort Huachuca, not just in terms of the core well-known missions but by highlighting other operations on post, some of which tie into the border.

In response to Council Member Calhoun, Mr. Potucek noted that while Representative McSally sits on the Armed Services Committee in the House, she is also on the Homeland Security Committee, which deals with border issues with Mexico, so there are huge opportunities with

homeland security. Mayor Pro Tem Blanchard suggested having them come out to Fort Huachuca.

Council Member Ash stated that the Governor's budget and statement that he will not raise taxes is misleading and the burden is shuffled on to municipalities and local government and asked Triadvocates what is their message when they strategize and they go to to the legislature. Ms. Reese stated that the message is derived from City Council and what the response should be to the proposal because at this time it is a proposal. There is a history of the State putting costs back onto the local jurisdiction. There is certainly a trend and so the message is basically dependent upon the position and how adamant Council wants them to be.

In response to Council Member Mount, Ms. Reese stated that the Governor wants to address the structural deficit this year.

3. Adjournment

Mayor Mueller adjourned the work session at 5:00 p.m.

Mayor Frederick W. Mueller

Minutes prepared by:

Attest:

Maria G. Marsh, Deputy City Clerk

Jill Adams, City Clerk