Tempe

Minutes of the City Council's Finance, Economy & Veterans' Affairs Committee held on Tuesday, April 15, 2008, 3:00 p.m., in the 3rd Floor Conference Room, Tempe City Hall, 31 E. 5th Street, Tempe, Arizona.

Minutes
City Council's Finance, Economy & Veterans' Affairs Committee
April 15, 2008

Committee Members Present:
Vice Mayor Hut Hutson, Chair
Councilmember Mark Mitchell

City Staff Present:
Steve Dalton, SROG Program Admin
Carlos de Leon, Dep Pub Wrks Mgr
Tom Duensing, Dep Financial Svcs Mgr
Michael Greene, Central Svcs Admin
Laura Guerrero, Risk Mgr
Jerry Hart, Financial Svcs Mgr
Don Hawkes, Water Utilities Mgr
Jan Hort, City Clerk
Glenn Kephart, Pub Wrks Mgr
Charlie Meyer, City Manager
Miyoung Kim, Plng & Research Analyst
Oliver Ncube, Dep Pub Wrks Mgr
Jon O'Connor, Acting HR Mgr
John Osgood, Dep Pub Wrks Mgr
Bruce Smith, License Collection Supvr
Wendy Springborn-Pitman, Eng Svcs Admin
Jay Taylor, Fleet Director

Guests Present:
John Gallagher, Red Oak Consulting

Vice Mayor Hutson called the meeting to order at 3:05 p.m.

Agenda Item 1 – Public Appearances
None.

Agenda Item 2 – Pedicabs
Jerry Hart summarized that this item was presented to the Council's Transportation, Housing and Environment Committee in January. He asked that Laura Guerrero, Carlos de Leon and Bruce Smith to be present to address any questions on the issue.

Vice Mayor Hutson stated that he would like to know what other communities are doing. His biggest concern is no liability coverage with no regulations.

Carlos de Leon stated that Glendale is the only city currently regulating pedicabs. The options would be a comprehensive ordinance, such as Glendale, or simply approaching the issue of the vendors providing some coverage. The Transportation, Housing and Environmental Committee discussed this and felt that pedicabs are currently covered under the State statutes and under the City statutes as to operation on the street, but that doesn't address insurance requirements.

Laura Guerrero stated that the City Attorney's position is that pedicabs are regulated somewhat from a bicycle perspective. The City hasn't deemed them as a formal business operating on Mill Avenue. She suggested staff look at whether they are actually a concessionaire.

Vice Mayor Hutson asked if the owner has to have a business license.

Bruce Smith responded that the running of a pedicab itself does not require a license. If there is a third party that rents the pedicabs to the drivers, then that third party does need a business license. The concern doesn't seem to be the third party, but the person on the bicycle.

Vice Mayor Hutson suggested that it should be the owner of the bicycle.

Mr. Smith stated that the person renting it out would need a license with the City. It would be a tax license, but they wouldn't need a minimum level of liability insurance. The tax license would be issued solely for the collection of the tax on the rental activity. If we want to regulate and license these identities for liability insurance, we would need to make sure we have defined our purpose up front so we would be covering the bases that we are intending to hit.

Vice Mayor Hutson clarified he was simply trying to cover the liability.

Ms. Guerrero added that once that is done and the requirement is made, we also start regulating it and setting out expectations for safety issues. Are these people concessionaires and should they be treated as such, or should we allow them to be regulated by the bicycle traffic rules and regulations?

Mr. de Leon added that Council looked at this issue in 2000 and the position was not to regulate because at the time there wasn't a problem. The pedicabs were still required to meet State law which is related to bicycle rules. Those regulations do not address the liability issue.

Vice Mayor Hutson stated that he would bring this issue up again in the future.

Ms. Guerrero stated that staff will do further research on this issue.

<u>Agenda Item 3 – Procurement Ordinance</u>

Michael Greene summarized that many of the proposed changes are related to changes that have been made in the State Procurement Code.

Vice Mayor Hutson asked if these are the same changes that were outlined a few months ago.

Mr. Greene responded that they are. The City Attorney's Office has reviewed and approved all of the proposed changes. One minor change has been made to the protest process. Currently, the ordinance requires that the Financial Services Manager can be the internal committee to review appeals. Staff would recommend adding the option that the Financial Services Manager may contract with an outside hearing officer to hear those appeals. Staff has also made a note in the ordinance regarding the reimbursement for those fees. Whichever party wins on the appeal would pay for the hearing officer expense.

Vice Mayor Hutson asked for clarification on posting of award recommendations to external web.

Mr. Greene explained that this would formalize the current practice which is to post the recommended firm's proposal or bid to the City's external website up to five days prior to the Council meeting. That practice is off-center with what the ordinance specifies, however. The ordinance specifies that the information will remain confidential until after award. This change would simply make the ordinance match current practice.

Vice Mayor Hutson asked what would happen if Council decides to start all over.

Mr. Greene responded that if Council decides to reject the recommendation, staff has also recommended that all of the responders' proposals become public immediately after that decision.

Vice Mayor Hutson asked about service revolvers being purchased for $1. He wouldn't want a person to get a new gun 90 days before he retires and to buy it for $1.

Jerry Hart stated that staff would work with the Police Department to make sure that doesn't happen.

Mr. Hart added that this probably takes care of the Procurement Ordinance for this year.

CONSENSUS: Take forward to Council.

<u>Agenda Item 4 – Solid Waste Fees</u>

Tom Duensing summarized that two options are presented:

1. Rate increases to capture the cost of the program, including a provision for funding of Other Post Employment Benefits (OPEB). That projection is approximately $600K per year in the Solid Waste Fund. If OPEB is included, calculations indicate rate increases of about 5% for residential operations and 3% for the commercial operations.
2. The Solid Waste Program without OPEB funding would be a 2% rate increase for residential operations, and 1% for commercial operations.

He continued that a few years ago, staff brought forward the solid waste rate review and Council determined that rates would be set to develop a reserve for OPEB funding. Staff's recommendation is to go ahead and do the same thing for this particular study. This would mitigate any future rate increases needed at the point funding any portion of OPEB begins. If in a couple of years if it is determined that we will not fund it or that we will severely reduce the amount of funding below the $600K, that money will stay in the Solid Waste Fund. The effect will be to offset future rate increases.

Staff recommends two-year rate increases, one effective November 1, 2008 and the other effective November 1, 2009. The Solid Waste Fund revenues and the costs are very predictable, so staff is comfortable with the amount of capital needed to replace.

Vice Mayor Hutson asked where this puts the City in comparison with the other cities.

Mr. Duensing responded that it would put Tempe below Phoenix and Mesa and above Scottsdale, Gilbert and Chandler.

Councilmember Mitchell added that Tempe is above those three right now at the current rate.

Mr. Duensing added that a 5% increase translates into 91 cents per month.

Councilmember Mitchell added that Tempe exceeds the other cities with the additional services it provides. Residents are very grateful for the quality of service that is provided. He asked if illegal dumping in alleys affects the uncontained collection.

John Osgood responded that from an operational standpoint, Tempe is ramping up coordination efforts with Police Department in terms of communication and knowing what is happening. Secondly, it would help to define illegal dumping. City Code states that landscapers are responsible for the disposal of the material they cut down. There are situations where many houses share the alley, and one homeowner will direct the landscaper to put it in the alley. Technically, that would be considered illegal dumping.

Vice Mayor Hutson added that the landscapers know that, but the residents might not.

Mr. Osgood added that new signs will be posted to explain that the alleys are for resident use and no one else should be putting things there.

Mr. Hart added that residents have the incentive to allow their landscapers to dump their trash in the alleys because it keeps the price down.

Glenn Kephart added that in the City Manager’s budget, an additional inspector position is requested. This would allow the ability to address those kinds of issues and to work with residents. Staff is working on a program to identify certain neighborhoods and partner with the neighborhood to host clean-up events with a document that states that the neighborhood takes responsibility for the alley, etc.

Mr. Osgood explained that staff is meeting tomorrow with the Neighborhood Services staff to develop an awareness-kickoff event and these events could be done throughout the year.

Vice Mayor Hutson asked if there are educational programs for residents to outline their responsibilities.

Mr. Osgood responded that it has been put into the water bill, it is the resource guide, and they have developed a separate educational piece only for alley maintenance.

Oliver Ncube added that the cost comparison does not show service comparison.

DIRECTION: Forward to Council on May 15, 2008.

Agenda Item 5 – Water/Wastewater Fees

Don Hawkes introduced the rates team: Oliver Ncube, Tom Duensing, MiYoung Kim, Steve Dalton, and John Gallagher (Red Oak Consulting). Through the budget process, Mayor and Council have looked at the Capital Improvement Program (CIP) for the Water Utilities Department. The CIP over the five-year period totals $209M and it is driven by three things: regulation, growth and aging infrastructure. Of that $209M, $106M is earmarked for projects that will enable the City to meet current regulations, which are unfunded mandates by EPA. In addition, there are pressures on the operating side with higher chemical, electricity, and labor costs.

Red Oak Consulting was brought on board to perform a cost of service rate study. They looked in detail at each customer class to determine usage and revenue needed for each customer class to offset those costs. The results show that revenue needs to be increased to support both the CIP and the rising O&M costs. Relative to the water business, the study indicated revenue needs to be increased by 11.5%, and relative to the wastewater business, revenue needs to be increased by 20%. An average customer uses 15,000 gallons per month, and to recover fully the cost of service, it would mean a rate increase of $1.91, from $25.09 to $27.00 effective November 1. For wastewater, it would mean a rate increase of $2.85, from $16.47 to $19.32. The total bill would change by $4.76 or $57.00 per year. Even with this increase, Tempe remains one of the low-cost leaders. Chandler beats Tempe by $1.60.

Vice Mayor Hutson asked if Chandler would be having a rate increase.

Mr. Hawkes responded that staff anticipates every utility in the valley will have rate increases as everyone is faced with the same pressures. While these are steep increases, that is what gets business into the black. The rate increases could be phased in over three years, and the phasing increase would be 9.6%, going from $41.56 for the average customer to $45.56, which still puts the City above Chandler. As far as we know, Chandler has not adjusted their rates yet.

Vice Mayor Hutson asked for the difference in the impact with the phased rate increases.

Mr. Hawkes responded the delta is about 76 cents per month. It makes it more difficult to do the phase-in, but it is pay now or pay later. Staff recommends, from a business perspective, to go for the rate increases that provide cost recovery.

Vice Mayor Hutson added that it would be important to lessen the impact as much as possible.

Mr. Hawkes added that this is a work-in-progress. This is the first time an outside source has done a thorough rate study. Staff would like to move this forward. Staff will continue to do as much as they can to reduce the pain. Staff could bring forward a couple of options for Council's consideration, including a three-year phase-in with full disclosure of what that does to the business.

Councilmember Mitchell clarified that if Council decides to do a one-time rate increase, what would prevent those costs from not escalating?

Mr. Hawkes responded that they will escalate. This business is very volatile.

DIRECTION: Move forward to Council.

Tom Duensing added that the total overall rate increase (water, wastewater, solid waste) for the typical residential customer would be about a 9.5% increase on the total utility bill.

Agenda Item 6 – OPEB Update

Tom Duensing summarized that at the March 18th FEVA meeting, staff distributed the actuarial study used for financial statements. The actuarial study has also been presented to the presidents and representatives of all the employee groups in the City. To date, he has received no questions on the study. Staff has been directed to convene an Ad Hoc OPEB Committee with representatives from the employee groups. Currently, a facilitator is being hired.

Mr. Duensing added that at the previous meeting, Vice Mayor Hutson had asked about the structure that Phoenix had used. The City of Phoenix used a similar structure to what staff has proposed:

- Committee Facilitator
- Technical Advisor – Segal is currently the employee benefits advisor
- Five-Sided Partnership Representation
- Confidential Employee Representation
- Human Resources and Financial Services Staff Representation

The only difference is that Phoenix used Segal as the facilitator. Segal is contracted to be their benefits consultant. Staff decided, however, to use an independent facilitator and have Segal there if needed for some technical advice.

He summarized that staff would like to go back to the Ad Hoc OPEB Committee and provide some guidelines on how much of a program we are able to fund. Staff would like to ask the FEVA committee, not for a set dollar amount, but more of a policy decision on where we should set the funding level goal. For example, a funding level goal could be set at $1M per year, and based on that, staff could go back to the committee and develop a program that would fit within that funding level goal. Staff could set 5% of payroll each year, which basically translates to a $5M goal, and a program could be developed around that.

Vice Mayor Hutson asked how this Committee would determine what that number should be.

Mr. Duensing responded that staff has talked about staying competitive and staff has talked about setting a level that the City could basically afford to fund. It could be going back to the department managers or back to the Financial Services staff to look at some of the Mayor's Ad Hoc Long Range Budget and Finance Committee recommendations to determine a level. The general fund basically drives the level of funding for this program. Staff could bring back a set dollar amount that is reasonable and that would be competitive, and yet the City would be able to fund.

Councilmember Mitchell stated that with Council looking at the budget right now, it would be helpful to know that number.

Vice Mayor Hutson clarified that staff would have to bring that number back to this committee for a recommendation that it go to the Ad Hoc OPEB Committee for determination whether they can do it. Council can't set a policy with that number if the employees can't manage it.

Mr. Hart added that when the Operating Budget plan was presented to Council last Thursday, staff knew that at least for FY 2008/2009, there would be no decision yet. Their struggle was balancing the budget without consideration of OPEB. OPEB is still an issue and staff will continue to work on it. Mr. Duensing mentioned that staff will be working with the Ad Hoc OPEB Committee over the next several months with the goal to actually develop an affordable plan that could be funded every year and that could ultimately be brought to Council. Originally, Council directed staff to work towards developing a plan of funding for OPEB and what that actual plan will look like remains to be seen. Whatever is the level of funding that the City can afford each year will dictate the nature of the program that needs to be developed.

Councilmember Mitchell asked why $10M was put in last year.

Vice Mayor Hutson responded that it was available, but it isn't available this year.

Councilmember Mitchell added that there are monies out there that Council needs to decide. If we don't know what the amount is, then Council can't make the decision.

Vice Mayor Hutson asked staff to come back with a number as soon as possible. That way, if there is some extra money in the budget, it can be added to the extra $10M.

Charlie Meyer added how it is funded is one set of problems. What is being funded is the question. An easy answer is to just fund the OPEB liability which is $22M according to the actuarial report. If we find $22M each year, we fund the OPEB liability. The direction that this Committee gave some time ago was to figure out some alternatives to simply accept the liability and move forward. Obviously, the biggest decision already made was to look at the new hires after July 1, 2007. That doesn't affect the OPEB liability because everything starts at July 1, 2007, so we only look at that which happened prior to that. Even if you decided to do nothing differently with retirees, there would be an outstanding liability. If we are looking at the current employees, how do we put some parameters around that so that when the Ad Hoc Committee goes to work, it doesn't simply say the only solution is to fund the liability? The number Mr. Duensing spoke of was simply what we are currently spending as a percent of payroll, or 5%.

Vice Mayor Hutson stated the original plan was to look at new employees, and it took a year longer than he anticipated getting there. For the second phase, he talked to employee groups and told them they had two years to come up with an affordable plan to take to the present employees. That's the number he's looking for and that number is taken back to the employees so they can figure out what to do.

Mr. Meyer added that there's about a year left of that two-year phase. It will take a while for this group to work through that. New employees didn't have a voice, but current employees do. Recent history has shown that medical expense has moved faster than payroll. He asked if there is a way to look at something with a Phoenix-type plan and do it within the current parameters of payroll.

Vice Mayor Hutson suggested that Mr. Duensing work with the 5% and see what he can do.

Councilmember Mitchell asked if the 5% is the cost for the current employees.

Mr. Duensing responded that the 5% is the cost of the current retirees' premiums, claims, and administrative costs. It has nothing to do with current employees. That number will grow as healthcare costs grow just for the current retirees.

Mr. Meyer clarified that the current healthcare for active employees is not an OPEB issue. The question is what parameters would we want to put on fixing that OPEB liability, either through paying down the OPEB liability or coming up with a plan to pay for it and what percentage of payroll would that whole package be today? Can we stay within that?

Mr. Duensing responded that if we could afford to fund $22M a year, that amount would take care of the liability. Putting that into a percentage of payroll would equate to 20% and that is way out of line.

Vice Mayor Hutson asked for Mr. Duensing's best estimate of the percentage of payroll for present employees, excluding the ones that were hired after July 1, 2007.

Mr. Duensing responded that the $22M can be broken down. The majority of this amount is funding all of the prior service for which funding has not been set aside. He would still stand by the 20% of the $100M payroll just for the current employees.

Councilmember Mitchell clarified that to fund current employees and current retirees, it would be about 25%.

Mr. Duensing clarified that we don't have to advance-fund anything. With that, there are some risks. There is the risk that we will pay more tomorrow, and there is the risk that there may not be a plan so there would be some employee uneasiness. We could buy some time if we needed to go back and get it through next year's budget process to determine a set dollar amount to fund. Again, for every year we wait, there are more retirees leaving the City and those have to be funded. The direction has been that we won't impact the retirees with this plan. It's a lot better to address this issue in the timeframe we have now than wait.

Councilmember Mitchell asked if this is similar to what the school district said that either you retire now to get the benefits, or retire later with no benefits.

Mr. Duensing responded that it is.

Vice Mayor Hutson asked, if we implemented a plan similar to the plan Phoenix adopted, what would that cost?

Mr. Duensing responded that the City Manager directed staff to look at that and the actuary did not calculate that. The biggest cost we have in our program is for the current retirees. If we don't impact the current retirees, the current employees will have to carry a bigger piece of this OPEB cost. If we design a program around the City of Phoenix plan, it would help, but it wouldn't help cut the $22M in half. That is a guess, however, and the actuary could look at that.

Mr. Hart added that last year when FEVA discussed this issue, one thing we wanted to do in trying to establish that parameter whether it would be an annual dollar amount or percent of payroll, etc., was to get an updated actuarial report, which we did. We also needed to update the long range forecast to see what capacity there was, if any, to designate a dollar amount. We didn't find anything.

Councilmember Mitchell asked if there are any legal issues to changing the plan for retirees.

Jon O'Connor responded that there is no legal issue per the City Attorney's Office.

Councilmember Mitchell suggested performing a benchmark with the other cities for retirement benefits.

Mr. Meyer responded that the problem with a benchmark is that the only cities doing this are Phoenix and Mesa. Phoenix already has its plan, and Mesa hasn't even touched the issue, so from a competitive standpoint, we are pretty competitive. The bad news is that there is nothing to compare to. We would have to go outside of the immediate area. Today, we have the cost of funding for current retirees and that's at 5%. What is the current pay-as-you-go?

Mr. Duensing responded it is 5% and it is growing as increases in healthcare costs out-pace the increases in our payroll.

Mr. Hart added that the number of retirees increases each year.

Mr. Duensing added that the $5M of the $22M is $17M which is roughly 17% of payroll.

Mr. Hart added that staff is trying to find resources to fund $17M on an annual basis for the next 30 years.

Councilmember Mitchell asked if there is any hope to get any of the legislation fixed. There have to be better mechanisms to help take care of this issue.

Mr. Meyer responded that what OPEB did for the City is provide a wake-up call.

Councilmember Mitchell asked if the legislation could be changed so there would be alternative ways to fund it.

Vice Mayor Hutson responded that it could be bonded, but the problem is not having enough bonding capacity to accommodate it.

Mr. Meyer added that the easiest answer is to come up with a plan similar to that for the new hires. That controls the cost. For current employees, especially those within a few years of retirement, it would seem like a cruel trick to pull their coverage out now and say the City will have to fund a health savings fund for them. For someone who has a lot of years to go, there would be enough time to fund those and it wouldn't be as expensive as funding the liability itself.

DIRECTION: Vice Mayor Hutson directed staff to put a number together and bring it back. Mr. Duensing needs a number and some guidance so he can go back to the Ad Hoc OPEB Committee to get started.

Mr. Duensing agreed to do that. In order to limit liability, we are seeing employers going to a defined contribution program which puts the risk away from the employer and onto the employee. There is a balance to strike, but with the risk of increased healthcare costs, employers are allowing employees to remain on the plan (like new hires) by paying 100% of the premiums. The risk resides with the employee and it takes any liability away from the city as long as the current amount the city said it would fund is funded. The biggest cost in OPEB is the prior service cost and the risk that these will go up and the employer has to bear the cost and the risk of covering those increased costs. Private companies and now governments are going toward that.

Vice Mayor Hutson asked if that is the plan new employees have.

Mr. Duensing responded that it is. The balance to strike is what to do with a long term employee who may be a few years away from retirement. If you only set aside $2K per year into a medical savings account for that employee who is just about to retire, that is pretty tough.

Vice Mayor Hutson asked if the Phoenix plan covered things like that.

Mr. Duensing responded that it does. That plan isn't as rich as the Tempe plan, however. Tempe's current employees and retirees enjoy the best plan in the valley and probably one of the best in the country.

Mr. Meyer asked if there is a way to evaluate the Phoenix plan and determine if we were in the Phoenix plan, what it would cost. That might help answer the question. We would be looking at what the cost would be in order to be comparable to the best other plan in the Valley.

Vice Mayor Hutson asked staff to also determine who made up the committee that developed the plan.

Councilmember Mitchell asked if the cost for current retirees is anywhere in the operating budget.

Mr. Hart responded that it is budgeted each year.

Mr. Meyer clarified that the question really is whether we are covering current retirees for their health insurance this year but are we recognizing the current retirees for what their cost will be for the next twenty years. We are only funding out-of-pocket costs for the retiree health insurance for next year.

DIRECTION: Vice Mayor Hutson directed that as soon as staff can get that information ready, the committee will have a one-item agenda rather than waiting a month.

Agenda Item 7 – Future Agenda Items

None.

Meeting adjourned at 4:24 p.m.

Prepared by: Connie Krosschell
Reviewed by: Jerry Hart

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Jan Hort, City Clerk