
CITY COUNCIL REPORT

TO: Frank Fairbanks
City Manager

FROM: Karen Peters
Government Relations Director

SUBJECT: 2009 STATE LEGISLATIVE AGENDA

This report describes the City's proposed state legislative agenda for the First Regular Session of the 49th Arizona State Legislature. State priorities were discussed by the Mayor and Council at a work study session on November 18, 2008 and have been refined by staff to reflect that input. Once approved by the City Council, the agenda will define the City's state legislative priorities and guide the City's lobbying activities at the State Legislature. As bills are introduced and debated, the agenda will evolve with input from the Mayor and Council. The session will commence on Monday, January 12, 2009.

GUIDING PRINCIPLES AND KEY PRIORITIES

Each year the State Legislature considers thousands of bills and amendments, many of which impact municipal operations. Staff will brief the Mayor and Council throughout the session and seek direction regarding important bills and amendments; however, in order to prioritize and guide staff's lobbying efforts, we recommend that the Mayor and Council endorse familiar, but critical, guiding principles as our highest priorities – maintaining and protecting **local authority**, enhancing **fiscal sustainability** and opposing **unfunded mandates**.

Local Authority – Cities and towns are established voluntarily by people living in communities in order to foster economic activity and deliver services that protect public health, safety and quality of life. Phoenix was incorporated in 1881, thirty-one years prior to Arizona statehood, and has enjoyed 127 years of uninterrupted growth and community involvement. The City's Charter, adopted in 1913, empowers Phoenix residents to determine the structure and authority of city government in our unique community. Staff recommends that the City work to protect the ability to set policy at the local level and oppose legislation that preempts local authority.

Fiscal Sustainability – The City's budget includes revenues from a number of State sources, most importantly "shared revenues" from state income, sales and vehicle license taxes. Shared revenues make up one-third of the City's general fund, helping to pay for police, fire, streets, parks, and other critical City services. Staff recommends that the City oppose any reduction of shared revenues. Also important, staff recommends that the City work to maintain other state revenue sources such as highway user revenue (HURF), local transportation assistance (LTAF), Heritage Fund, and other funds such as federal or other grants passed through the State to the City.

The State's FY 2009 budget signed by the Governor in late June 2008 included an unfortunate surprise – an unprecedented, mandatory “contribution” from cities, towns and counties of over \$29 million. The Phoenix share of that “contribution” is \$5.6 million according to the Joint Legislative Budget Committee (JLBC). The League of Arizona Cities and Towns retained attorneys to analyze the mandate; they have prepared a written opinion that it is unconstitutional because it increases state revenues but was not passed with the required two-thirds majority vote. At this time it is unclear how this issue might be resolved, but staff recommends that the City work to reverse it and prevent any similar action in future budgets. The two-thirds threshold for altering formula funding for cities and towns such as shared revenue and HURF was confirmed in a January 2008 opinion by the Arizona Legislative Council requested by Rep. Steve Farley (D – Tucson).

Oppose Unfunded Mandates – Given our fiscal predicament, new unfunded mandates could force the City's budget further into the red. Some of the mandates the City experienced last session included new jail costs related to an increase in DUI penalties (\$6 million), Highway Revenue User Fund reductions (\$6 million), and the Local Area Transportation Fund II sweeps (\$2.8 million). Staff recommends approval to oppose state legislative efforts that shift new programmatic duties to the City without accompanying funds.

Sustainability Issues – The City is committed to sustainability and strong environmental stewardship, and has initiated and implemented many programs that go beyond regulatory requirements and laws. Our efforts have resulted in national recognition and a local leadership role. Staff recommends monitoring legislative opportunities to further the City's sustainability program, such as funding for acquisition of open space and preserve lands or funding or other incentives for energy efficiency programs.

OTHER LEGISLATIVE ISSUES

In addition to the guiding principles and priorities described above, staff recommends that the City include a limited number of specific issues in its agenda for 2009. These issues have been identified by staff as well as the Mayor and Council over the last several months to respond to specific community needs.

Public Safety

Adequate Funding for the Statewide 9-1-1 Emergency System – New communication technology increases burdens on public safety answering points (PSAPs). In order for 9-1-1 operators to receive important information such as wireless phone locations and callback numbers when users dial 9-1-1, computer networks need upgrades. Exacerbating this challenge is the anticipated shortfall in funding, due to legislative 9-1-1 fund sweeps and reductions to the telecommunications public safety tax. Last year, the City introduced legislation that would address the shortfall in the emergency 9-1-1 system by adjusting administrative fees that the Arizona Department of Administration receives and transferring a portion of these funds to the regional 9-1-1 network. Unfortunately, this legislation did not pass and the Maricopa Region 9-1-1 office was

forced to cut one staff position. Staff requests approval to again seek legislative solutions to address 9-1-1 service/funding needs.

Additional Revisions to Metal Theft Statutes – Metal theft continues to plague our community. Thieves target various types of metal-based property including air conditioning units, catalytic converters, and city manhole covers. Not only do these crimes carry a financial cost but also create threats to safety. Staff requests approval to pursue legislation that strengthens law enforcement's ability to tackle this issue.

Revisions to Reckless Driving Laws – Reckless driving violators may be subject to mandatory enhanced/increased sentencing for prior convictions for the same offense. The Prosecutors' Office has identified inconsistencies in the reckless driving laws which impact sentencing of these repeat violators. Staff requests approval to seek changes to the reckless driving laws to clarify application of mandatory enhanced sentencing for repeat offenders.

Felony Dog Bites – Each year, more than 5000 animal bites are reported to Maricopa County's Animal Care and Control Division; more than 1500 of the victims of those bites are under 12 years old. Given these statistics, the County is concerned that current state laws are not sufficient to act as a deterrent, and is considering a change in state law to allow dog owners who knowingly endanger others with a vicious or dangerous dog to be charged with a felony. Staff requests approval to support Maricopa County's efforts to strengthen the state's animal biting laws.

Neighborhoods

Increased Penalties on Graffiti Crimes – Graffiti vandals spread their blighting impact throughout communities and cost local government and private property owners millions for removal. For deterrence purposes, staff requests approval to pursue legislation that would increase the penalty for damaging property with graffiti to a class 1 misdemeanor.

Tenant Notification on Foreclosure Sales – Phoenix, like many other cities in our country, has an increasing number of properties in foreclosure, including many multi-family properties. Tenants of these properties are often the last to know and have few rights when a foreclosure sale happens forcing them to vacate with little or no notice. Staff requests approval to seek a change in state law to add tenants to the list of interested parties that must be contacted before a trustee sale, providing impacted residents additional time to seek alternative housing.

Reporting Requirements for Entities Taking Possession of a Property with a Trustee's Deed, Sheriff's Deed or Foreclosure Action – Currently, entities that take possession of property through a trustee sale, sheriff's sale or foreclosure action do not have to disclose the state in which the entity is organized or domiciled. Without this information, it is difficult to locate out-of-state owner entities when issues arise with their properties. Staff requests approval to amend state law to require contact information from entities that acquire properties with a trustee's deed, sheriff's deed or a foreclosure action.

Community Development

Continued Social Service Funding from the State – As the economy worsens, the City is hard-pressed to provide much-needed social services in the community. Federal funds that are passed to the City through the discretion of state agencies help us serve more residents. Some of this funding pays for direct utility assistance, family caseworkers, and homelessness services. Given the state’s budget situation, these pass-through monies are at risk of being used to balance the state’s budget deficit. Staff requests approval to advocate continuation of passing through these funds at last year’s levels.

Preservation of Municipal Impact Fee Program – Last year, a stakeholder group including representatives from the development community and cities and towns successfully pursued legislation that prohibited an increase of impact fees against a specific development for 24 months after approval of a final subdivision plat or site plan amendment for that development. That measure was vetoed by the Governor. Similar legislation likely will be introduced again next year. Staff requests Council approval to oppose legislation that negatively affects the City’s impact fee program. In addition, staff requests approval to work with the state land department to improve the public/private coordination of future land sales.

Economic Development

Adjustments to Film and Motion Production Tax Incentives – In 2005, the legislature approved film and motion picture production tax incentives as a means to promote production of commercial motion pictures in the state. The Arizona Film and Media Coalition – a grassroots organization consisting of economic development and media groups – will pursue legislation next year that extends the 2010 sunset on the current tax incentives program, as well as minor changes to streamline the application process. Staff requests approval to support the Coalition’s efforts to extend and enhance Arizona’s film and motion production tax incentives program.

Establishment of a Renewable Energy Business Tax Credit Program – The Greater Phoenix Economic Council (GPEC) is advocating a renewable energy business tax credit with hopes of stimulating new investments in manufacturing and headquartering operations of in-state and out-of-state renewable energy companies. Potential legislation would establish a 5-year program that would create a tax credit equal to 10% of new capital investment. Staff requests approval to support GPEC’s efforts in pursuing this type of legislation.

Water and Environment

Supporting Sound Statewide Water Policy – Staff continues to work with stakeholders discussing water policy to address challenges of continued growth both in and out of the urban areas. The City has been a leader in advocating sound, sustainable water policy, and has developed a secure water resource portfolio for the continued growth and vitality of our community. Staff requests approval to engage in water policy discussions at the State legislature that continue those policies.

Mutual Aid Agreements Between Public and Private Water/Wastewater Entities – State law prohibits local governments from entering into mutual aid agreements with private utilities, limiting the prompt exchange of available resources in a declared emergency.

Staff requests approval to seek legislation that would permit government entities to enter into mutual aid agreements with private water and wastewater companies.

Other Issues

Penalties for Equine Tripping – Last session, legislation was introduced that made it a class 1 misdemeanor to intentionally trip an equine (horse or donkey) for entertainment or sport, but the measure was not adopted. Staff requests approval to pursue legislation that establishes a class 1 misdemeanor for equine tripping.

Preserve the Flexibility of Affordable Housing Programs – The Arizona Department of Housing (ADOH) and the Arizona Housing Finance Authority (AzHFA) administer several federal affordable housing programs that are subject to a myriad of regulations. Affordable housing programs, including the Qualified Allocation Plan and the State Housing Fund Program, are also mandated to have additional internal rules. Requiring ADOH and AzHFA to create additional state rules for these federal programs is redundant and could lead to multiple and perhaps contradictory source documents for administration of these programs. Additionally, the process to change a state rule can take several years, while these programs need to remain flexible to address changing market conditions. Staff seeks approval to support efforts to remove duplicative state regulations in order to streamline the efforts by ADOH and AzHFA to provide funding and other support for affordable housing projects throughout the state.

Oppose Efforts to Extend the Sunset on the Payday Loan Industry Within the State – The state's licensing program for payday lending institutions is set to terminate on July 1, 2010. In November, Proposition 200 – which would have eliminated the sunset date – was rejected by voters by almost a 2/3rds margin. The City has historically opposed legislation that either enhanced this industry or extended the licensing program, because of the impacts to our residents who apply for and receive loans that could accrue interest at rates as high as 390 percent. Staff recommends approval to oppose any efforts that will extend the current sunset date.

Simplification of the Public Construction Procurement Process – Current state law permits public agencies to self-perform work without going out to bid. Current provisions have dollar thresholds associated with different types of construction work that can be done by an agency with its own construction resources. The dollar thresholds and associated cost elements for each threshold vary greatly depending on the types of work being done. The current law is difficult and nearly impossible to interpret, and does not present a clear answer within a public agency on how, when, and to what extent it can use its own forces to do construction and/or maintenance-related work. Staff requests approval to seek legislation that would simplify the dollar thresholds and cost allocation.

Updating State Regulations of Motor Vehicle Safety Equipment – The Federal Motor Carrier Safety Administration (FMCSA) regulates and enforces the operation of large trucks and buses sold in the United States. Recent changes in federal law regarding positioning of vehicle head and tail lamps are in conflict with state laws. Staff requests approval to pursue legislation that brings state law in alignment with federal regulations in the area of vehicle head and tail lamp location.

CONCLUSION

Government Relations staff requests approval of the City of Phoenix's 2009 State Legislative Agenda.