

Meeting Minutes

City Council Work Session

May 10, 2021 | 4:30 p.m.
Council Chambers Conference Room
88 E. Chicago St., Chandler, AZ



Call to Order

The meeting was called to order by Mayor Kevin Hartke at 4:30 p.m.

Roll Call

Council Attendance

Mayor Kevin Hartke
Vice Mayor Mark Stewart
Councilmember OD Harris
Councilmember René Lopez
Councilmember Terry Roe
Councilmember Christine Ellis
Councilmember Matt Orlando

Appointee Attendance

Josh Wright, Acting City Manager
Debra Stapleton, Assistant City Manager
Kelly Schwab, City Attorney
Dana DeLong, City Clerk

Staff in Attendance

Matt Burdick, Communications and Public Affairs Director
Ryan Peters, Governmental Relations and Policy Manager
Cori Garcia, Mayor and Council Communications Manager
Steven Turner, Acting Airport Manager
Dawn Lang, Management Services Director
Matt Dunbar, Budget Manager
Boyd Dunn, Citizen's Bond Exploratory Committee Chair

Discussion

1. Presentation and discussion regarding the proposed 2021 Chandler Bond Election

MAYOR HARTKE introduced the discussion item and said there would be a special meeting later in the day to dissolve the Citizen's Bond Exploratory Committee. Mayor Hartke said the Committee met multiple times to discuss the need for bond authorization and a final recommendation was

presented to Council February 25, 2021. Mayor Hartke thanked Council for their work as well. Mayor Hartke called for a staff presentation.

JOSHUA WRIGHT, Acting City Manager, said this was an extremely thorough process and thanked Council for how they set up the Committee. Chandler is leading the way on how this process can work going forward.

DAWN LANG, Management Services Director, presented the following presentation.

- Bond Counsel, City of Chandler
 - Timothy A. Stratton, Partner Gust Rosenfeld P.L.C.
- Agenda
 - Bond Process Overview
 - City Bond Counsel Overview
 - Background on Arizona Election Laws and Process
 - Publicity Pamphlets
 - Bond Election Ballot Questions
 - Overview of General Obligation Bond Questions
 - Education vs. Advocacy
 - Bond Election Education Plan of Action
 - Next Steps
- Bond Process Overview
- Citizen Bond Exploratory Committee
 - Boyd Dunn, Chair, Finance Subcommittee
 - Trinity Donovan, Public Safety Subcommittee
 - Mark Gildersleeve, IT Subcommittee
 - Ron Hardin, Public Works Subcommittee
 - Ted Huntington, Parks Subcommittee
 - Nina Mullins, Facilities Subcommittee
 - David Sperling, Airport Subcommittee
- Citizen Bond Exploratory Committee Timeline
 - August 20, 2020 Citizen Bond Exploratory Committee Kick-Off Meeting
 - All 49 Committee members came together to hear from Mayor Kevin Hartke and Committee Chair, Boyd Dunn, on the purpose of the Committee
 - September 1, 2020
 - First Steering Committee Meeting
 - September 8, 2020
 - All Subcommittees began meeting this week
 - October 2020
 - Subcommittee members received tours of City facilities and learn about needed projects
 - November 2020
 - Subcommittee began prioritizing projects needed in a potential bond election

- November 5, 2020
 - Citizen Bond Exploratory Committee Chair, Boyd Dunn, provided an update to the City Council on the Subcommittees progress
- December 2020
 - Finance Subcommittee evaluated financial options based on subcommittee recommendations
- December 15, 2020
 - Subcommittees finalized project priorities and submitted a final ranking sheet to Finance Subcommittee
- January 15, 2021
 - Steering Committee unanimously approved projects to be considered for a bond election
- January 28, 2021
 - Citizen Bond Exploratory Committee Chair, Boyd Dunn, provided an update to the City Council on the Subcommittees progress
- January 29, 2021
 - Steering Committee voted to approve the ballot question language
- February 12, 2021
 - Steering Committee voted to approve Citizen Bond Exploratory Committee Executive Report
- February 25, 2021
 - Citizen Bond Exploratory Committee Executive Summary presented to the City Council by the Committee Chair, Boyd Dunn
- March 1, 2021
 - Citizen Bond Exploratory Committee Close out meeting
- Public Communication
 - CAPA launched public information campaign in November
 - New section on City's website created to be hub for all information chandleraz.gov/bondelection
 - Social Media posts and articles released in November
- Citizen Bond Exploratory Committee Recommendation
 - Parks \$72,985,000
 - Fire \$25,160,000
 - Police \$55,190,000
 - Facilities \$33,570,000
 - Streets \$85,780,000
 - Grand Total \$272,685,000
 - Maintains property tax rate

TIM STRATTON, Gust Rosenfeld, Bond Counsel for the City, continued the presentation.

- City Bond Counsel Overview
- Why Do We Need an Election?

- Authorize the City to borrow money for approved capital projects
- The foundation that Bond Counsel relies on to issue an unqualified opinion that the bonds have been fully and validly issued
- Chandler's bond authorization needed to support 10-year Capital Improvement Plan
- GO Bond Elections
 - Secured by ad valorem taxes
 - Order of the election by the political subdivision governing body (i.e., City Council) or petition signed by 15% of the qualified electors
 - Transaction costs may come from authorized amount, but bond election expenses to be paid from current operating funds only
 - Notice of election per ARS 9-812 and 39-204 (not publication)
 - Election held at the regular voting places on the first Tuesday following the first Monday in November
 - Publicity Pamphlet is required
 - Ballot form must include certain language – for example, “the issuance of these bonds will result in a property tax increase...”
 - Authorization does not expire

COUNCILMEMBER HARRIS asked if they would want to conduct voting a different way would that be allowed under law, or if voting has to be done on paper.

MR. STRATTON said in Arizona law it depends on if the court deems the election a matter of local concern or statewide concern. There are different interpretations of a municipality to do things outside of the norm. Those would be a non-standard voting situation other than a mail in ballot or an in-person ballot. There could be electronic voting on the voting machines. There is no specific statutory authority to do anything else. Cities have to be able to derive their authority from their charter or from state law or they could open themselves up to an election challenge.

COUNCILMEMBER HARRIS clarified the statute does not state what type of form it needs to be just that the voting process needs to happen.

MR. STRATTON said the statute does specifically mention vote-by-mail and voting at polling places.

COUNCILMEMBER HARRIS asked if they could vote electronically for the bond election.

MR. STRATTON said he would recommend against that because they do not have statutory authority to do that. If the courts were to find that it was a matter of statewide concern and there was not a statute that allowed it, then there could be a potential lawsuit. If there was a lawsuit then the law firm would not be able to issue an opinion on the bonds until the litigation was resolved. The best-case scenario is that the court would say it was okay, but the bond sale would be delayed until the court's decision which could be a long time. Mr. Stratton said if the court said

no then the election results would be invalidated and they would have to do the process again with the voters.

COUNCILMEMBER HARRIS asked if he has worked with a City who has done electronic voting and how long would that take.

MR. STRATTON said they have not had any cities in Arizona that have gone with electronic voting. Some states have enacted legislation to allow it and if they wanted to explore something like that then Mr. Stratton would work with staff to see if the legislature would sponsor a bill to give municipalities authority to do that. Mr. Stratton said voting access and election integrity is a big topic right now so it would be hard to tell how long that process would take.

MR. STRATTON continued the presentation.

- Publicity Pamphlets
 - Legal Statutes of the Publicity Pamphlet
 - ARS Section 35-454 requires that the purposes be listed in the publicity pamphlet and limits the use of bond proceeds to the purposes stated
 - The purposes set out in the publicity pamphlet may be different than the language in the ballot
 - Requirements
 - ARS Section 35-454 not less than 35 days before the election, mail to every household with a registered voter
 - Sherman v. Tempe – before the election means before early voting begins
- Publicity Pamphlet – Substantive Content Requirements
 - Amount of Bonds
 - Maximum Interest Rate
 - Estimated Debt Service Schedule for Current Outstanding Bonds
 - Estimated Debt Service Schedule for Proposed Bonds
 - Limits on assessed value growth assumptions
 - Source of repayment
 - Estimated issuance costs
 - Estimated total cost (including P&I)
 - Bold font
 - Polling location for the addressee
 - Estimated tax impact on certain types of properties:
 - Residential (\$250,000)
 - Commercial (\$1,000,000)
 - Agricultural/Vacant (\$100,000)
 - Projects and expenditures for which the bonds are to be issued
 - Hours during which polls will be open
 - Current outstanding GO debt and Constitutional limitation
 - Pro/con arguments

MAYOR HARTKE asked if it included the City's ability to pay down out of the general fund.

MR. STRATTON said they could create a narrative that would talk about the fiscal responsibility of the City and that they are responsible stewards of the public treasury.

VICE MAYOR STEWART asked if the rate was the same for residential as for commercial.

MR. STRATTON said no, there are different rates based on assessment ratio.

MS. LANG said residential is 10% of assessed value and commercial is around 15%.

MR. STRATTON continued the presentation.

- Publicity Pamphlet Pro/Con Arguments
 - Governing body must specify the deadline to submit in the Resolution
 - Publish deadline (doesn't say how to publish, so use the standard found in A.R.S. 39-204)
 - Political subdivision may charge a fee for arguments (Chandler charges \$150)
 - Overly gratuitous additions in the publicity pamphlet, such as "Purpose" or "Why this Election was called" must be carefully reviewed

COUNCILMEMBER ORLANDO asked if they are required to post that this may cause a tax increase.

MR. STRATTON said in the publicity pamphlet they could say although state law requires this be put on the bonds the net tax increase would be zero.

COUNCILMEMBER ORLANDO said they would be able to mitigate those concerns with the additional language.

MR. STRATTON said yes.

COUNCILMEMBER ROE asked if they could use some cash and maybe some bond funds to retire an existing bond that is at a higher rate.

MS. LANG said they have been fortunate to sell in low-rate environments and they do refinance to get a lower rate when possible. Ms. Lang said since she has been at the City, they have not dipped into General Fund dollars to pay off debt as they rely on the secondary tax rate and opportunities for refinancing.

COUNCILMEMBER ROE clarified there is bond refinancing.

MS. LANG said that is an ongoing analysis to always look for those opportunities.

COUNCILMEMBER ROE said if the bond passes and these funds are available for the projects, is the new bond money able to pay off other existing bonds.

MS. LANG said if the public allows the authorization to do that and it is not to generate dollars to pay off something unless it is a refunding bond.

COUNCILMEMBER ROE asked if there was discussion on refunding bonds.

MS. LANG said with the election they are asking for new authorization to sell new bonds, but it does come into play when they lay out their financing plan in the publicity pamphlet and keep the tax rate flat.

MR. STRATTON said refunding is something they could always do, and they can add a statement about how the City has taken advantage of this to demonstrate fiscal responsibility.

COUNCILMEMBER LOPEZ asked about the requirement from the State saying the bonds would raise taxes and if that was a newer requirement.

MR. STRATTON said it was newer and they had testified against the measure because the statement is not always true.

MS. LANG said they were looking at it from the perspective that if the bonds were not sold then the tax rate would go down even though they are keeping the tax rate the same.

COUNCILMEMBER ORLANDO said they have had these budget policies for years so they can historically show the fiscal responsibility.

MR. STRATTON continued the presentation.

- Publicity Pamphlet
 - Within 30 days after election, City Clerk shall submit copy of the publicity pamphlet to the Department of Revenue
 - All written voter information must state the tax rate necessary to support the bonds (A.R.S. 35-454.C.)
 - Publicity pamphlets typically have more detail than the Ballot and it is in the publicity pamphlet where you can "explain" things and go into more detail
 - Bond Committee members can draft statements in favor of the referendum (Bond Committee to be sunset prior to advocacy)

VICE MAYOR STEWART asked if the publicity pamphlet would go out with the ballot.

MR. STRATTON said it goes out in advance of the ballot and gets mailed to every household and is on the City's website.

VICE MAYOR STEWART asked why it is not mailed with the ballot.

MR. STRATTON said it is the way State statute is written.

MS. LANG said this would give people time to review it. Ms. Lang said the commercial property rate is 18% assessed value.

COUNCILMEMBER LOPEZ asked if only one pamphlet is sent per household.

DANA DeLONG, City Clerk, said yes.

MR. STRATTON continued the presentation.

- Bond Election Ballot Questions
- Preparing the Ballot Question
 - Scope of Questions
 - The law prohibits “log rolling”
 - Typically, there is no log rolling if there is a common nexus among the items presented and the law has not divided the issues in other contexts
 - Purposes vs. Projects
 - Must be broad enough in scope to cover all expenditures expected to be made
 - Need enough specificity so the voter can’t claim “fraud in the inducement”
 - Examples, construct vs. improve; expand vs. renovate; equipment; financial costs; lease and acquire
 - Dollar sizing
 - Construction estimate
 - Inflation
 - Incidentals
 - Amount authorized may exceed the current debt capacity
 - Ballot form must include certain language – for example, “the issuance of these bonds will result in a property tax increase...”
- Municipal Facilities Bonds
 - QUESTION 1
 - PURPOSE: Municipal Facilities Bonds
 - AMOUNT: \$33,570,000
 - Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:
 - Purposes: To construct, improve, renovate, replace and remodel municipal buildings and critical infrastructure related thereto; to furnish and equip such facilities and improve the grounds thereof.

COUNCILMEMBER LOPEZ asked the difference between renovate and remodel.

MR. STRATTON said the degree of improvements and some of the language has been used in other successful elections, but they could go back and word smith.

MAYOR HARTKE asked if they should use the word existing municipal buildings.

MS. LANG said the facility study was done and there were some areas where buildings may need to be taken down and rebuilt so this was meant to capture all the various scenarios. Ms. Lang said this leaves it open and not mentioning specific facilities which allows the authorization to shift.

MAYOR HARTKE said they do not use the term aging infrastructure.

MS. LANG said it is based on past questions and how they were written. Ms. Lang said they could use that description in the publicity pamphlet, but this is how they questions would be written to encompass all the various needs.

MR. STRATTON said when they start to use the word aging, they get into a gray area. That word may mean something different to different people. This is why the language is broad, but they could add specific items to the questions. If broad language is used, then they have broad leeway in the projects that are financed.

COUNCILMEMBER ORLANDO was concerned the language was too broad and there were not examples.

MR. STRATTON said each community is different. Mr. Stratton said they have done elections where the questions were very broad, and this is similar to the language used in Tempe. These are very political types of questions and Council would know the community best.

COUNCILMEMBER ORLANDO said the municipal buildings was very broad, but the other questions are more descriptive. Councilmember Orlando said he was concerned about that question.

MS. LANG said this is the first time the City has prepared a municipal buildings bond question. Ms. Lang said they could provide examples of critical infrastructure that could be used on any municipal building.

COUNCILMEMBER ORLANDO said he would like to see an example to give the voters more information.

COUNCILMEMBER ELLIS said they need to also be mindful that the law says they cannot influence the voters. Councilmember Ellis said saying that a roof is leaking or there is no AC begins to

infringe on that area. Councilmember Ellis said since they have not done it before they do not have precedence of how it was asked so they can present the question as written now.

COUNCILMEMBER ORLANDO said the others are more specific except this one.

COUNCILMEMBER ELLIS said she read the question and understood it. Councilmember Ellis said they need to ensure they look at other cities on how they have done it since the City does not have precedence.

MAYOR HARTKE asked if staff could provide more examples but still staying generic. Mayor Hartke said he agreed with Councilmember Orlando.

MR. STRATTON said he was cautious of adding negative descriptors, but they could add items that could be included in this. Mr. Stratton said they would work on additional language and still within the parameters of the law.

COUNCILMEMBER LOPEZ asked if they say these certain items would that limit them to just those items.

MR. STRATTON said they have to be careful in the language and they could say including certain items and other similar critical infrastructure.

MAYOR HARTKE asked if Council was in agreement to have staff work on additional language.

COUNCIL agreed.

MR. STRATTON continued the presentation.

- Park and Recreation Improvements/Community Services Bonds
 - QUESTION 2
 - PURPOSE: Park and Recreation Improvements/ Community Service Bonds
 - AMOUNT: \$72,985,000
 - Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:
 - Purposes: To construct, improve and acquire community, neighborhood, regional and aquatic parks, including recreational facilities, buildings and improvements; to acquire land for parks, recreational facilities, buildings and open spaces; to make improvements, additions and replacements to existing parks and recreational facilities and buildings; to landscape, furnish and equip existing and new parks and recreational facilities and buildings
- Public Safety/Fire Bonds
 - QUESTION 3
 - PURPOSE: Public Safety/Fire Bonds

- AMOUNT: \$25,160,000
- Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:
- Purposes: To construct, improve, renovate and remodel fire stations and other fire safety related facilities; to furnish, equip and improve fire stations, fire safety related facilities and radio infrastructure; and to acquire vehicles and land for fire and public safety purposes
- Public Safety/Police Bonds
 - QUESTION 4
 - PURPOSE: Public Safety/ Police Bonds
 - AMOUNT: \$55,190,000
 - Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:
 - Purposes: To construct, improve, renovate and remodel police stations and other police related facilities; to furnish, equip and improve police stations, police related facilities and radio infrastructure; and to acquire vehicles and land for police and public safety purposes
- Public Works/Street and Transit Improvements Bonds
 - QUESTION 5
 - PURPOSE: Public Works and Street and Transit Improvement Bonds
 - AMOUNT: \$85,780,000
 - Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:
 - Purposes: To design, acquire, improve, construct, reconstruct and rehabilitate the streets, avenues, alleys and highways of or within the City; to design, acquire, install, construct and reconstruct street lighting, traffic signal/control systems, underground utility lines, landscape improvements and transit/bicycle program improvements, including shared use paths and trails; to acquire land and interests in land for transportation purposes

COUNCILMEMBER LOPEZ asked if they have highways.

MS. LANG said Arizona Avenue is a highway.

MR. STRATTON continued the presentation.

- A.R.S. required ballot language for payment of bonds
 - Each series of these bonds will be issued at the option of the Mayor and Council as general obligation bonds of the City pursuant to Title 35, Chapter 3, Article 3, Arizona Revised Statutes, payable from the levy of an ad valorem tax against the taxable property located within the City, and the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service of the bonds, unless the Mayor and Council provide for payment from other sources

- Government Resources Influencing the Outcome of an Election
 - Advocacy vs. Education
 - Objective test, not based on the subjective state of mind of the actor
 - The prohibition applies before a measure qualifies for the ballot and throughout the election process
 - The legal test is whether the activities unambiguously urge a person to vote in a particular manner
 - City resources cannot be used for advocacy, but may be used for education
 - Staff can volunteer time but cannot be compelled to work on campaign or work on campaign on the clock
 - Impartial, content neutral information has been allowed, but the courts will look to the style, tenor and timing of the activity
- Government Resources Influencing the Outcome of an Election
 - Normal non-partisan “get out to vote or register” activities are permitted
 - 2000 and 2004 Attorney General Opinion allows the answering of frequently asked questions and an analysis of the financial impact of the ballot measure
 - Can’t have pictures of town’s police cars, etc. - in ‘vote yes’ campaign material
 - State and federal prosecution possible if government funds are used
 - Federal case - wire fraud theft is a result of using program funds from a program receiving federal funds

MR. STRATTON continued the presentation.

- What Can Council Members Do?
 - CAN advocate on behalf of the bond questions with their own resources
 - CAN attend and speak at election events
 - CAN urge citizens to vote yes and talk about benefits, including via personal social media
 - CAN write letters and volunteer on a bond campaign committee
 - CAN NOT direct staff to work on campaign or advocate
 - CAN NOT use city resources such as phones, computers, email
 - CAN NOT use city funding

COUNCILMEMBER HARRIS asked if a constituent reaches out to the Councilmember if they could respond and how.

MR. STRATTON said to reply using their personal email back to them and to not use City email.

MS. LANG said staff can respond in a very fact-based way. Ms. Lang said any encouragement of voting yes would need to be done through personal email.

MR. STRATTON continued the presentation.

- What Can Staff Do on Their Own Time?

- CAN write letters and volunteer on a bond campaign committee
- CAN talk about benefits
- CAN urge citizens to vote yes
- CAN NOT use city resources such as phones, computers, email
- CAN NOT direct staff to work on campaign
- CAN NOT advocate for the passage of the bond questions on paid time or in their capacity as a City employee

MATT BURDICK, Communications and Public Affairs Director, continued the presentation.

- Bond Election Education Plan of Action
- City Role to Educate
 - Education vs. Advocacy
 - Factual in nature
 - Inform and encourage voter participation
 - Submittal of pro/con arguments
 - "Vote by Mail" process
 - Series of videos
 - What are bonds?
 - What are they used for?
 - Past bond funded projects
 - Illustrative examples of proposed bond projects
 - Series of printed documents
 - Digital – website & social media
 - Create Bond Election Summary and fact sheets for public distribution

MS. LANG talked about using educational materials on their personal time.

MAYOR HARTKE talked about speaking using factual information and crossing the line between their role and their role as an individual.

MR. STRATTON said anyone can sue based on their belief. Mr. Stratton said to be careful in terms of speaking at events and not use any City resources. Factual information could be given that is available to the public. Mr. Stratton said since everything is recorded, they should add they are speaking as a citizen and no one can challenge that.

MS. LANG said if a staff member is asked to speak they could not encourage anyone to vote yes.

COUNCILMEMBER LOPEZ said it is education and no opinion.

- Next Steps
 - February 25, 2021 Citizen Bond Exploratory Committee Executive Summary completed and briefing by

- Steering Committee Chair at City Council Work Session
- February 25- April 30, 2021 City Council discussion of recommendations
- May 27, 2021 By resolution, the City Council Calls for an Election and approved ballot language
- June 16, 2021 Bond Election education begins
- June 18, 2021 Ballot language submitted to Maricopa County
- August 4, 2021 Deadline to file Pro/Con with City Clerk
- September 20, 2021 Sample Ballot / Publicity Pamphlet mailed to voters before election
- October 4, 2021 Last day for voters to register for election
- October 6, 2021 First day to mail out ballots in the "Vote by Mail" election
- November 2, 2021 Election Day
- November 22, 2021 Deadline for City Council to canvass the election

Adjourn

The meeting was adjourned at 5:53 p.m.

ATTEST:

Erica Barba
acting City Clerk

Kevin Hartke
Mayor

Approval Date of Minutes: May 27, 2021

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the City Council of Chandler, Arizona, held on the 10th day of May 2021. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 27 day of May, 2021.

Erica Barba
acting City Clerk

