

MINUTES
INFRASTRUCTURE IMPROVEMENTS ADVISORY COMMITTEE
OF THE CITY OF SAN LUIS, ARIZONA
San Luis Council Chambers
1090 E. Union Street
San Luis, Arizona 85349
January 11, 2018
5:30 p.m.

PLEASE TAKE NOTICE THAT BOARD MEMBERS MAY ATTEND THE MEETING BY TELEPHONIC COMMUNICATION

PLEASE TAKE NOTICE: The Chair or Acting Chair may change the order of the items.

PLEASE TAKE NOTICE: *If authorized by law and by a majority vote of a present quorum of the Board of Directors, an executive session will be held immediately following the vote in accordance with A.R.S. §38-431.03(A) and the meeting will be temporarily recessed while the Board retires to executive session which will not be open to the public.*

1. **CALL TO ORDER/ROLL CALL** Mr. Gary Black called the meeting to order at approximately 5:40 p.m.

PRESENT:

Gary Black
James "Jim" Davey
Guillermina Fuentes (arrived at approximately 5:43 p.m.)
Shelley Ostrowski
Agustin Tumbaga

NOT PRESENT:

OTHERS PRESENT:

Kay Marion Macuil, City Attorney
Glenn J. Gimbut, Assistant City Attorney
Tadeo De La Hoya, City Manager
Janet Taylor, Legal Secretary
Axel Chayra, IT
Ralph Velez, by phone (was disconnected during meeting)

2. **DISCUSSION AND POSSIBLE ACTION ITEMS:**

- 2.A. Election of officers for the Infrastructure Improvements Committee (**Kay Marion Macuil, Corporation Attorney**)

Motion to nominate and elect for President: Jim Davey was nominated by Gary Black and Agustin Tumbaga, all were in favor.

Motion to nominate and elect for Vice President: Gary Black was nominated by Guillermina Fuentes and Shelley Ostrowski, all were in favor.

Motion to nominate and elect for Secretary: Shelley Ostrowski was nominated by Agustin Tumbaga and Gary Black, all were in favor.

2.B. Oath and Swearing-in of officers and members to serve on the Infrastructure Improvements Advisory Committee. Member James “Jim” Davey as President, Member Gary Black as Vice President, Member Shelley Ostrowski as Secretary, Member Agustin Tumbaga as Member and Member Guillermina Fuentes as Member, took the Oath of Office and were sworn in by Notary Public Janet Taylor. Witnessed by Axel Chayra and Kay Marion Macuil.

2.C. Introductory presentation by City Attorney’s Office regarding the role and duties of the Committee and the statutory scheme regarding development fees as contained at A.R.S. §9-463.05. **(City Attorney Kay Marion Macuil and Assistant City Attorney Glenn J. Gimbut)**

(Please note this is a summary of the topics in the presentation and discussion not verbatim and not in the order in which they were said)

Summary of Presentation:

Glenn Gimbut, Assistant City Attorney, addressed the committee.

A.R.S. §9-463.05

Mr. Gimbut presented a brief history of A.R.S. §9-463.05 and the changes in legislation in 2011. He first explained that the legal term was “development fees” which is Arizona’s term for what is commonly known as “impact fees.” He explained that the current statute is a combination of statutes from other states which makes it a confusing statute to interpret. Even the Arizona Legal Expert on the Statute, Andrew McGuire, says he must check his notes every time a question comes up on it.

Mr. Gimbut presented an overview of the current statutory scheme in that a municipality must develop an infrastructure improvement plan (“IIP”), determine the amount attributable to meet the needs created by new growth, then establish a fee to charge only those needs created by new growth upon that growth. The idea is that growth would pay for itself this way. In practice, an above average development fee pays for only about 80% of the infrastructure for growth. So the Development fee is just a fee in the mix of the revenue that a city uses. An infrastructure improvement plan, and the associated fee must be updated every five years. The city must spend the fees on the

improvements in the IIP within 10 years. A municipality can have an Infrastructure Improvement Advisory Committee, but it does not have to. The other option is biennial (two-yearly) certified audits. Under the statute, this does not mean certified audits as a certified public accountant would use the term. Instead, the audit could be conducted by professionals including engineers and related. San Luis City Council chose an Advisory Committee. In this way, there is built-in stakeholder input for the city. San Luis like most cities wants to grow. If the city does not create infrastructure, then the stakeholders do not build.

Application of the Statute in San Luis

The law passed in 2011 commanded that a new fee, if a municipality was going to continue to have one, had to be in effect on or before August 1, 2014. San Luis hired a professional consultant, TishlerBise, and went through a series of public hearings in the adoption of its current ordinance and current fee. Advisory Committee members Gary Black and Guillermina Fuentes participated in those hearings. As a result of the public input, San Luis adopted no development fee for water, but the TishlerBise study provided a calculation for it. Mr. Gimbut referred to the 2014 TishlerBise study, the City's development fee ordinance, and the resolution adopting the IIP and the development fee sent to committee members prior to the meeting.

The Committee's Role

To have a new IIP and development fee in place by August 1, 2019, the City will be starting a process of contacting a consultant and going through a process like the process in 2013 and 2014 that led to our current fee. With an eye to the adoption of an IIP in 2019, the city is undergoing a Capital Improvement Plan ("CIP") process. How does one involve stakeholders? It was felt that by forming an Infrastructure Improvement Advisory Committee, this would be one way to involve stakeholders in the decision-making process. The role of the advisory committee is to make recommendations to Council and Council makes the final decisions.

There are several moving parts for which a committee can make effective recommendations. For example, what happens if the improvement as mentioned in the IIP cannot not get done? The law allows an amendment to the IIP of different projects related to the demands placed upon the city by growth, as long as the amendments involve no new or different fee. Involving the Committee in making recommendations to Council on the amendment is one possible role for the committee.

Advising on the new CIP is another role. Whether the new IIP should be the new CIP or a different project list is another area.

Giving feedback to the consultant in developing the IIP and the criteria or methodology to determine the share related to growth and the ultimate fee to be charged is another area. What costs should be borne by growth and what should be borne by existing residents, is another area of input.

How many meetings, when, what kind of input, will be up to the Committee. Mr. Gimbut referred to the Committee adopting annual reports. That proposed reports had been given to the Committee.

Summary of Discussion and Questions by Committee Members

Vice President Gary Black

On a question by Mr. Black regarding whether the committee could have public hearings before a development fee is adopted. His concern was that the Committee have more to base their recommendation on than the opinion of expert scholars. Mr. Gimbut answered that what kind of hearings, when, and what purpose, as well as what information to tell the public, will be up to the Committee. Staff was here to serve the committee. Mr. Gimbut stressed the need for context, saying holding a hearing just for the sake of having one, without telling the public specifically what it was about, why they should attend, and what comments one was seeking, was, in his experience, an exercise doomed to fail. Also, the staff does not have a crystal ball, and so without the committee telling staff details concerning the public hearing, staff would not know what to tell the public. Gary Black reemphasized his desire for the public of San Luis to give input before the committee could make a recommendation. Both Glenn Gimbut and Tadeo De La Hoya, City Manager, reiterated that staff was here to serve, and would accommodate the Committee on any future meeting, and accommodate them in their informational requests prior to making any recommendation to Council.

Mr. Black asked if the recommendation of priorities was a role for the Committee. Mr. Gimbut said that is something that the City has not done well and that would be an appropriate role.

President James Davey

Questioned how often the Meetings would be and Mr. Gimbut said that would be up to the Committee how often and whether to have regular meetings or as needed.

Member Agustin Tumbaga

Mr. Tumbaga clarified with Mr. Gimbut that the Open Meeting Law and the laws of conflict apply to the Committee and its members.

Mr. Tumbaga expressed concern whether the Committee was to be a rubber stamp or not. To be effective in meeting the August 1, 2019, deadline for the IIP there needs to be a plan to do real work on the project. He what is the next step would be and when. Mr. Gimbut answered the next step is for the City to hire an economist and have the economist starting in July which would be the start of the 2018 fiscal budget.

City Manager Tadeo A. De La Hoya answered Mr. Tumbaga's inquiry about the projected budget for the CIP that is was about \$35,000,000 over the next 5 years.

Mr. Tumbaga asked that the Committee have the latest draft of the CIP.

President James Davey

There was discussion among the Committee and with City Manager De La Hoya about the CIP, and that staff can brief the Committee about the CIP. Mr. Davey asked how the city pays for infrastructure. Mr. Gimbut said roughly 1/3 sales tax, 1/3 Highway Users Revenue Fund (HURF), 1/3 all other revenue and development fees are a small slice of that. The City loses money on building a home because the government cannot make a profit from water and sewer services.

Mr. Davey asked whether the development fee is set. Mr. Gimbut replied that it was set in 2014 and will be in process for setting it again in 2019.

Secretary Shelley Ostrowski

Ms. Ostrowski mentioned she can bring an outsider's view to the Committee.

Vice President Gary Black and President James Davey

Mr. Black and Mr. Davey asked that staff provide the Committee with what City Council has received so far on the CIP.

3. EXECUTIVE SESSION

MOTION TO HOLD AN EXECUTIVE SESSION PURSUANT TO A.R.S. §§38-431.03(A) (3)

Discussion and possible action to hold an Executive Session pursuant to the authority of A.R.S. §38-431.03(A) subsection (3) for discussion or consultation for legal advice with the attorney or attorneys of the San Luis City Attorney's Office regarding the advisory role and duties of the Committee, and the provisions of A.R.S. §9-463.05; and the statutory scheme for imposition, collection and expenditure fees. **(Kay Marion Macuil, City Attorney and Assistant City Attorney Glenn J. Gimbut)**

MOTION: Vice President Gary Black/Member Guillermina Fuentes to enter into executive session at approximately 6:32 p.m. Motion passed unanimously.

4. MOTION TO GO BACK INTO REGULAR SESSION

MOTION: Secretary Shelley Ostrowski/Vice President Gary Black to go back into regular session. Motion passed unanimously.

- 5. Discussion and possible action on any and all matters regarding adoption of Committee Reports. (Kay Marion Macuil, City Attorney and Glenn J. Gimbut, Assistant City Attorney)**

MOTION: Motion by Member Agustin Tumbaga and Secretary Shelley Ostrowski to continue agenda item. Motion passed unanimously.

- 6. Discussion and possible action on any and all matters regarding scheduling of future meetings. (Kay Marion Macuil, City Attorney)**

Next meeting of the Infrastructure Improvements Advisory Committee will be held on Thursday, January 18th at 3:00 p.m. in San Luis Council Chambers.

7. ADJOURNMENT

Meeting adjourned at approximately 8:12 p.m.

DRAFT MINUTES