

Memorandum

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CITY SECRETARY
DALLAS, TEXAS
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CITY OF DALLAS

DATE 20 August 2010

TO Members of the City Council Legislative Ad Hoc Committee: Jerry Allen; Dwaine Caraway; Linda Koop; Pauline Medrano; Ron Natinsky; Dave Neumann; Steve Salazar

SUBJECT **Legislative Ad Hoc Committee Meeting**
Tuesday, August 24, 2010
2:00 p.m. – 3:30 p.m.
Dallas City Hall
1500 Marilla, Room 6ES

AGENDA

1. Approval of the October 6, 2009 Committee Meeting Record
2. Federal Legislative Update
Barbara McCall
Washington Consultant
(via conference call)
3. Development of the City's Legislative Program for the
82nd Session of the Texas Legislature
Larry Casto
Assistant City Attorney

Vonciel Jones Hill, Chair
Legislative Ad Hoc Committee
Councilmember
District 5

- C: Honorable Mayor and Members of the City Council
Deborah A. Watkins, City Secretary
Thomas P. Perkins, Jr., City Attorney
Craig D. Kinton, City Auditor
C. Victor Lander, Administrative Judge
Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
A.C. Gonzalez, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest Turner, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Frank Libro, Public Information Office
Helena Stevens-Thompson, Assistant to the City Manager

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

- 1 Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.
- 2 The purchase, exchange lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.072 of the Texas Open Meetings Act.
- 3 A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.073 of the Texas Open Meetings Act.
- 4 Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.
- 5 The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.
- 6 Deliberations regarding economic development negotiations. Section 551.087 of the Texas Open Meetings Act.

Legislative Ad Hoc Committee Meeting Record

The Legislative Ad hoc Committee meetings are recorded. Agenda materials and audiotapes may be reviewed/copied by contacting the Intergovernmental Services Legislative Staff Coordinator at 214-670-5047.

Meeting Date: Tuesday, October 6, 2009

Meeting Convened: 2:08 p.m.

Committee Members Present:

Vonciel Jones Hill, Chair
Jerry Allen
Dwayne Caraway
Pauline Medrano
David A. Neumann
Ron Natinsky
Steve Salazar

Staff Present:

Larry Casto
Brett Wilkinson
Anna Holmes
Joy Grewatz

AGENDA:

Councilmember Vonciel Jones Hill opened the meeting at 2:08 p.m.

1. **Approval of the March 23, 2009 Committee Meeting Record**

Presenter(s): N/A

Action Taken/ Committee Recommendation(s): Item Approved

2. **Texas' Sunset Review Process and its Implications for the City**

Presenter(s): Larry Casto, Assistant City Attorney

Councilmember Vonciel Jones Hill opened the discussion on this item.

Informational Only: YES

3. **State and Federal Lobbyist Contract Renewals**

Presenter(s): Brett Wilkinson, Director, Office of Intergovernmental Services

Councilmember Vonciel Jones Hill opened the discussion on this item.

Action Taken/ Committee Recommendation(s): Item Approved

Councilmember Vonciel Jones Hill adjourned the meeting at 2:57 p.m.

Memorandum



CITY OF DALLAS

DATE August 20, 2010

TO Members of the City Council Legislative Ad Hoc Committee: Vonciel Jones Hill, Chair; Jerry Allen; Dwaine Caraway; Linda Koop; Pauline Medrano; Ron Natinsky; Dave Neumann; Steve Salazar

SUBJECT Federal Legislative Update

On Tuesday, August 24, 2010, Ralph Garboushian (CapitalEdge) will provide you with a federal legislative update via conference call. Mr. Garboushian works for Barbara McCall, who will be out of town and unavailable to participate. Attached are the briefing materials for you to review prior to Tuesday's discussion.

Please contact me if you have any questions.

A handwritten signature in black ink, appearing to read 'Mary K. Suhm'.

Mary K. Suhm
City Manager

**City of Dallas
Federal Legislative Update
August 24, 2010**

The last year has seen a remarkable amount of federal activity with impacts on local governments, ranging from the American Recovery and Reinvestment Act (ARRA/PL 111-5), which almost doubled domestic discretionary spending in FY 2009, to increased regulatory action at the Environmental Protection Agency (EPA) and renewed legislative and regulatory threats to local government authority.

In the coming year, federal relations will continue to present both opportunities and challenges for the City. Major issues will be reauthorization of federal surface transportation programs, appropriations for core local government programs, telecommunications (including implementation of the Federal Communications Commission National Broadband Plan), water and wastewater infrastructure, water quality, continued threats to local government authority and a general agenda of increased environmental regulation. All of these issues will play out against a background of fiscal restraint and deficit reduction.

FY 2011 Appropriations

It appears increasingly certain that Congress will not finish work on most FY 2011 appropriations bills before the election. Look for Congress to wrap up FY 2011 appropriations in a lame duck session through either a year-long Continuing Resolution or an omnibus bill.

A review of FY 2011 appropriations bills that have made their way through various stages of the legislative process shows that most core local government programs (CDBG, HOME, Law Enforcement Assistance, Firefighter Grants, UASI, etc.) would receive level funding or small increases in FY 2011. To date, pending FY 2011 appropriations bills include funding for the following Trinity River Corridor projects:

- \$20 million for Dallas Floodway Extension Construction (Senate)
- \$2 million for Dallas Floodway Extension Construction (House)
- \$2.3 million for the Dallas Floodway General Investigation (Senate)
- \$2.3 million for the Dallas Floodway General Investigation (House)

FY 2010 Appropriations

Funding for core local government programs (CDBG, HOME, Law Enforcement Assistance, Firefighter Grants, UASI, etc.) generally increased or stayed at FY 2009 levels. In addition, the delegation secured funding for the following City projects:

- \$12.594 million for Dallas Floodway Extension (KBH, Cornyn, EBJ, Edwards)
- \$1 million for Margaret McDermott Bridge (EBJ)
- \$1.345 for Dallas Floodway (New Start) investigations

Keeping track of all ARRA funding opportunities and of ARRA reporting requirements presented a major challenge over the past year. The City's efforts in this area produced significant results.

- The City received \$16.7 million in direct and sub-allocated formula grants from ARRA, including funding for the Woodall-Rodger Deck Plaza and for the McKinney Avenue Streetcar extension.
- In addition, the City submitted \$36.2 million in successful competitive applications, including \$8.8 million COPS Hiring Grant and a \$23 million TIGER Grant for the Downtown-Oak Cliff Streetcar.
- The City met all ARRA application and reporting deadlines.

Local Authority

The City worked closely with Senators Hutchison and Cornyn to turn back efforts to include language in the Travel Promotion Act (PL 111-145) to preempt local hotel occupancy taxes collected from Internet vendors.

The City also played a lead role in convincing the Federal Communications Commission (FCC) to remove language in the National Broadband Plan that would have called for preemption of local authority over public rights-of-way and related revenue (worth \$37.3 million to the City). The City was also involved in efforts to counter a FCC proposed rule to preempt local zoning authority over cellular telecommunications towers.

Dallas successfully pushed for a one-year delay of a federal requirement that local governments withhold three percent of all payments to private vendors to ensure that those vendors meet their federal tax liability. This requirement, which seeks to solve a simple IRS enforcement problem by imposing an unfunded mandate on local governments, would significantly increase City purchasing costs and the City continues to push for its repeal.

In the coming months and year, we anticipate additional threats to City authority.

- Congress continues to consider chemical facility security legislation that threatens to increase City drinking water and wastewater costs.
- House and Senate Committees of jurisdiction recently announced that they are planning to undertake an overhaul of telecommunications law; at the same time, the FCC will be implementing the National Broadband Plan and will be under intense industry pressure to preempt local authority and revenue collection.
- Recently, the City's senators helped turn back efforts to attach mandatory collective bargaining for state and local public safety employees to the supplemental appropriations bill; however, this legislation enjoys strong support and poses a threat to City finances and employee relations.

Surface Transportation

Congress continues to struggle to find a way to pay for a long-term reauthorization of federal surface transportation programs.

- In addition to requesting funding for several priority projects, the shape of the bill will determine the amount of control that City officials and their regional counterparts will have over federal transportation funds.

Trinity River Corridor Project

The House approved a Water Resources Development Act bill, thanks to Congresswoman Eddie Bernice Johnson's efforts, that would amend the authorization for the Trinity River Project to reflect recent changes to the project. In addition, the House has passed legislation (HR 5114) to reauthorize the federal Flood Insurance Program that includes language that would provide some relief to property owners affected by Corps of Engineers decertification of the Trinity River levees.

The FY 2010 Supplemental Appropriations Act (PL 111-212) includes language that removes historic preservation obstacles to the strengthening of the Trinity River levees and construction of the project's transportation elements.

Climate Change

Legislation that would create a cap-and-trade regime to reduce greenhouse gas emissions is stalled and likely dead for this Congress. In addition to the affects that this legislation could have on the Texas economy, several issues in this legislation are of interest to the City, including allocation of revenue from a cap-and-trade regime to the Energy Efficiency and Conservation Block Grant, a core local government grant program, and to local surface transportation projects. In addition, several iterations of the bill would impose mandates on local governments in the areas of transportation and land use planning and building codes.

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DATE August 20, 2010

TO Members of the City Council Legislative Ad Hoc Committee: Vonciel Jones Hill, Chair; Jerry Allen; Dwaine Caraway; Linda Koop; Pauline Medrano; Ron Natinsky; Dave Neumann; Steve Salazar

SUBJECT Development of the City's Legislative Program for the 82nd Session of the Texas Legislature

On Tuesday, August 24, 2010, Assistant City Attorney Larry Casto will brief you on the proposed state legislative program for the 82nd session of the Texas Legislature. Attached are the briefing materials for your review prior to Tuesday's discussion.

Please contact me if you have any questions.

A handwritten signature in black ink, appearing to read 'Mary K. Suhm'.

Mary K. Suhm
City Manager

**82ND SESSION OF THE TEXAS LEGISLATURE
DALLAS CITY COUNCIL LEGISLATIVE INITIATIVES**

PRIORITY INITIATIVES

The Sunset Review Process during the 82nd Legislative Session will cover twenty-eight state agencies, including the Public Utility Commission, the Electric Reliability Council of Texas, the Texas Commission on Environmental Quality, the Texas Water Development Board and the Railroad Commission. Many of the City's priorities will be contained within the continuing legislation for one of these regulatory agencies. Therefore, the City's overall priority will be defending against efforts that will attempt to undo legislative successes of the City from past sessions that improved the City's ability to provide services to our residents effectively and cost-efficiently.

The Public Utility Commission

Highest priority in this bill will be protecting the City's ability to collect over \$100 million in rental payments from utility companies who install various infrastructure in publicly-owned property.

Texas Commission on Environmental Quality

Waste water permits, junior and senior water right designation, environmental flows, increased and additional fees to be assessed and collected by cities and remitted to the state, and clean air regulations and unfunded mandates will all be among the proposals considered along with continuation of the TCEQ.

Texas Water Development Board

Groundwater district authority and regulation, long-term water supply, and improvements and financing of water-delivery infrastructure will be the focus of this agency's review.

Municipal Control to Develop and Implement Local Budgets

The City will need to focus much of its effort on defending against attacks against local control and cities' ability to establish their own budgets and meet their revenue requirements in order to ensure a safe and secure community, provide basic services and maintain a sound infrastructure system. It is anticipated that several bills will be filed that in some manner that will impose restraints on local control over the budget-setting process.

SUPPORT INITIATIVES

Public Safety

Pass legislation that establishes theft of an Automated Teller Machine (ATM) as a second degree felony. [DPD]

Amend Article 13.08 of the Texas Code of Criminal Procedure to facilitate prosecution of theft cases in which stolen property is taken in one county and transported into other counties. [DPD]

Amend Section 38.04 of the Penal Code related to evading arrest or detention to establish the penalty of a State Jail Felony when a suspect flees into a building and establish a Third Degree Felony when a suspect flees into a residence, both without effective consent of the owner. [DPD]

Amend 543.005 of the Texas Traffic Code as it relates to Promise to Appear and 38.02 of the Texas Penal Code as it relates to Failure to Identify to require suspects to provide a thumbprint when they fail to present a valid form of state-issued identification. [DPD]

Amend Chapter 243 of the Local Government Code, regarding the posting of intent to establish a Sexually Oriented Business, to include all proposed sites of SOB's, not just those sites that have not been previously licensed as such. [DPD]

Amend the Code of Criminal Procedure regarding the juvenile case management fund to:

- Allow juvenile case managers to be employed by the municipality, but not specify that they be employed by the municipal court;
- Allow the fund to be used for costs directly related to having these case managers, in addition to salary and benefits;
- Allow the counselors to work on cases that aren't directly truancy cases as long as truancy prevention is part of the counselor's remedy for the juvenile. [DPD]

Amend Texas Alcoholic Beverage Code to address preemption of municipal regulation of alcohol so that Council may take action to prevent concentrations of alcohol-related businesses. [DPD]

Support legislation that would:

- Require drivers to load and unload students from a vehicle door that is within 18 inches of a street curb or edge of street;
- Require the driver of the vehicle to direct the student to cross the street at legal crossing points (intersections or designated cross walks). [DPD]

Amend Chapter 1956 of the Texas Occupations Code as it relates to the regulation of Metal Recycling Entities. The proposed changes will include the following:

- If a person or business holds themselves out to buy regulated metal as defined in the statute without the applicable local permit/license and is not in possession of a valid state certificate of registration it shall be a criminal offense with a penalty of a state jail felony.
- Require a digital photo of the seller to be taken at the time of transaction and maintained by the purchasing entity.
- Require a digital photo of the vehicle and license plate of the vehicle used to transport the property for sale. The photograph shall be maintained by the purchasing entity.
- Classify catalytic converters as regulated material. [DPD]

Economic Vibrancy

Support a Constitutional Amendment that expands the authority granted in Local Government Code Chapter 380 to allow municipalities to take equity interest, capped at their investment, in economic development projects developed pursuant to Chapter 380. [CAO]

Amend Section 311.010(g) Local Government Code so that it conforms to the language in the rest of the section regarding applicability of Chapter 252. [CAO]

Clean, Healthy Environment

Pass legislation that facilitates the recycling of electronic waste and plastic bottles. (HB 821 was vetoed last session). [OEQ]

Pass legislation that designates North Texas Clean Air Steering Committee (NTCASC) as a "State Implementation Plan (SIP) Committee" that plays an active role in collaboration with the Texas Commission on Environmental Quality on the development and implementation of the Dallas-Fort Worth SIP. [OEQ]

Support TCEQ Air Quality Monitoring Funding. [Councilmember Hill]

Pass legislation that provides incentives for the installation of electric vehicle charging stations as well as the purchase of electric vehicles in the State of Texas. [OEQ]

Pass legislation that prohibits Home Owner Associations (HOA's) from denying requests to install solar panels on residential homes. [OEQ]

Pass legislation that changes the time frame during which the Locally Enforced Motor Vehicle Idling Rule is effective from ozone season (April-October) to year round. [OEQ]

Pass legislation that allows municipalities to perform surveys, environmental due diligence (including Phase I and II Environmental Site Assessments (ESAs), and appraisals when considering acquisition of property. [OEQ]

E³ Government

Amend the Texas Government Code, Title 5, Open Government; Ethics, Chapter 551, Open Meetings, Subchapter A. General Provisions, Section 551.050. Municipal Governmental Body: Place of Posting Notice to provide more uniformity across the state for all cities that have the ability to provide the convenience of a computer terminal at a place convenient to the public to access all municipality public notices. [CSO]

Amend the Texas Election Code, Title 17, Local Option Elections, Chapter 501, Local Option Elections on Sale of Alcoholic Beverages, Subchapter B. Manner of Calling Election, Section 501.032 (1) (3). Requirement to Order Election to allow municipalities to use the most recent mayoral election results in determining the number of signatures on a petition required to call an election and to establish uniformity among Election Law requirements regarding the number of signatures required to be verified based upon the last mayoral election. [CSO]

Amend current law that requires a written request from an employee to participate in any electronic funds transfer system established and operated by the municipality to allow all employees to automatically participate in the use of Direct Deposit or Cash Cards. [City Controller]

Educational Enhancements

Support continued development of the UNT Law School in Dallas and legislation establishing the first pharmacy school to be located in downtown Dallas. [CMO]

Support North Central Texas Universities in their efforts to attain Tier I Research status through continuation of the state funded incentive program. [CMO]

Culture, Arts & Recreation

Continue to encourage production of films, commercials and TV shows by maintaining the availability of incentives throughout the State of Texas. [ECO]

Ensure the State's special event funds allow for both sporting and non-sporting events that significantly impact the local economy. [ECO]