

**MINUTES
FINANCE COMMITTEE MEETING
CITY OF DOUGLAS
COUNCIL CHAMBERS
425 TENTH STREET
DOUGLAS, AZ 85607**

Monday, September 12, 2011

5:00 pm

1. CALL TO ORDER/ROLL CALL

Meeting was called to order at 5:57 p.m.

Members Present:

Mitch Lindemann
David Caveny
Mike Nava
Victor Varela
Margaret Morales

Members Not Present:

Ana Bernal (excused)
Raul Montaña (unexcused)

Also Present:

Curtis Shook, City Manager
Juan Pablo Flores, City Attorney
Luis Pedroza, Finance Manager
Lorenza Rascon, Committee Secretary

**2. PERSONS WISHING TO ADDRESS THE COMMITTEE IN WRITING OR
VERBALLY ON ANY ITEM NOT IN THE AGENDA**

None.

**3. APPROVAL OF MINUTES FOR APRIL 28, 2011, MAY 9, 2011 AND MAY 16,
2011**

Mr. Mike Nava entertained a motion to approve the minutes with corrections noted. Mr. David Caveny seconded the motion.

Mr. Nava noted corrections to minutes for May 9, 2011, on page 2, last paragraph, the word "transient" needs to be changed to "transit", and on page 8, the first paragraph, the work "militia" needs to be changed to "minutia". On

minutes for May 16, 2011, on page 3, middle paragraph, the word “things” needs to be changed to “thinks”.

Changes noted. Motion passed 4 – 0. Liaison member did not vote.

4. ACCEPTING RESIGNATION OF RAUL MONTAÑO

Mr. Mike Nava entertained a motion with regrets to accept the resignation of Mr. Raul Montaño. Mr. David Caveny seconded the motion. Motion passed 4 – 0. Liaison member did not vote.

5. DISCUSSION AND/OR APPROVAL ON FINAL RECOMMENDATION TO MAYOR AND COUNCIL ON PROPOSED RESOLUTION AMENDING RESOLUTION NO. 96-115 AND CLARIFYING MEMBERSHIP, APPOINTMENT TERMS, DUTIES AND PURPOSE OF THE FINANCE COMMITTEE

Mr. Mitch Lindemann began by explaining that he sat down with City staff and City Attorney Juan Flores to try to come up with ideas and put into a new resolution what the committee is actually doing now that it has evolved to this type of committee. He explained that when he became part of the committee it was already the way it is now. He agrees that it needs to be rewritten.

Mr. David Caveny made a comment about the number of committee members mentioned on the resolution and inquired if it was possible to have 5 not 7 members instead.

Atty. Flores agrees it is a good point and it should be considered whether the committee is kept as a 5 member board or is changed to a 7 member board. If it is decided that it will become a 5 member committee then it works perfectly with the resignation of Mr. Raul Montano. The committee would have 5 members with 1 additional member of the council, Ms. Margaret Morales, as the liaison.

He also made a correction to the document that he recommended. On line 24, it should be a maximum of 1 according to the Charter. Also on page 2, in reference to meetings on item 6 line 14 where it says “The Chairperson shall set an item on the agenda at the request of any three Committee members.” If the membership is kept at 5 then it should be 2 members requesting an item be placed in the agenda and if the membership is at 7 then it should be 3. He also suggested that every point should be looked at and a suggestion from other members should be taken into consideration.

Mr. Curtis Shook said that since he started with the City in 2007 the practices that are being used now with the Finance Committee are the same practices that were being used back then. It should be recognized that nobody was doing this on purpose. This Committee has by practice been operated a certain way. Everyone agrees with Mr. Nava that in reading the resolution it was not being

followed correctly and should be changed. This Committee has functioned by practice a certain way. The discussion needs to be whether or not those practices can be changed and not whether they were done with ill intent.

Mr. Mike Nava made a motion to adopt the proposed Resolution #11-853.

Atty. Flores asked if the motion included the suggested changes with 5 or 7 members.

Mr. Nava answered yes, with 5 members.

Mr. David Caveny seconded the motion.

Mr. Nava made a motion to amend by substitution sections 2, 4, 5 and 6. (attached to minutes are Mr. Nava's document showing at length the Motion by Substitution)

Mr. Caveny seconded the motion.

Mr. Nava explained that he has 6 points to make in relation to changes to the resolution. He explained that this is an oversight committee which enhances the trustworthiness of City Administration. Its authority is limited to that of recommending to Mayor and Council. It allows each member to be a full participant in the Committees work. It adheres to open meeting laws and allows for resident input in a call to the public. Among its advantages is that it can take some of the political heat from City Administration and Mayor and Council when an unpopular but necessary financial action is taken as a result of the Committee recommendation.

Mr. Victor Varela expressed concern about the amendments proposed being that they were just presented to them and he has not had a chance to review it.

Mr. Nava explained he would be summarizing the amendments and continued by explaining section 2. He explained that he states 5 members and that Mayor and Council can appoint the Mayor, a Council Member or the City Manager as one of the five and that this person should be appointed Liaison. He continued by saying that the Mayor with consent of the Council shall appoint the chairperson for a 2 year term. But that the chairperson may not be the Mayor, a Council Member or the City Manager. And to clarify, the chairperson may make motions and second motions.

He continued by saying that he does not see a need for an ex-officio membership although the Mayor and City Council can under the City Charter appoint one.

He continued by explaining that the purpose and duties of the Committee, as a lay residents' oversight committee, which on a regular basis should study, review

and monitor the City finances, should allow the Members to ask the City Manager or the City Treasurer for advice and there should be a guarantee that the Finance Committee's recommendations will be only recommendations.

He continued by saying that he insists that there should be quarterly meetings. That such meeting should be more definitely scheduled as Atty. Flores suggested.

Atty. Flores explained that what he suggested is that the Committee would need to determine if they want to have a quarterly meeting and if they do want to keep the quarterly meeting they should be set at a definite date or go with the staff recommendation of having at least two meetings and more if needed.

Mr. Caveny asked if the State budget follows a routine calendar or if it varies.

Mr. Shook answered that it depends on when the State Legislature passes the budget. He also explained that if quarterly meeting are scheduled then by July the books should be closed and a good idea of what the ending numbers are will be given. The only thing pending will be accrual accounting. In an October meeting the first quarter numbers will be given between revenues and expenditures, also any changes that would need to be made. In January, a report on half of the year can be given as well as capital improvements. And in April we can start talking about the following year's budget.

Mr. Lindemann explained that he feels meetings should be kept the way they are now where staff is called whenever they are needed. It is not necessary to put it into a resolution and have set dates for meetings.

Atty. Flores clarified that the State budget and the City's budget timetable have nothing to do with each other. The City's timetable is set but the City depends on the State budget to make a decision on the City's budget.

Mr. Nava continued by explaining that none of the items he has talked about tie the State budget to the City's budget. He also asked when the auditor's reports were presented.

Mr. Shook explained that reports may be available at the end of December or beginning of January. He believes that the Final Audit should be available for review by January.

Mr. Nava asked if all the items that he tied to a specific date will be available for review by the Committee. He also explained that the meeting agenda should be set by the Chairperson in consultation with the City Manager and the City Treasurer. He also suggested that any member can ask for an agenda item and that the request is honored and once the agenda item comes up and if there is a motion and a second that the committee control whether it passes or not. The

amendments continue by explaining the provisions for Arizona's Open Meeting Law and that there are no executive sessions and there should be a "Call to the Public". Also in the last paragraph he suggests that instead of three consecutive absences from a meeting it should be two unexcused absences. He also emphasized that what he is suggesting as a substitution accomplishes several points, that it is an Oversight Committee and that hence it has nothing to take away from the City's trustworthiness. That it enhances the service of the Administration because they can say that it went thru the Finance Committee and they made the recommendation. This Committee should be an independent committee. It should not be controlled by Council because they would have the option of accepting or rejecting the recommendation.

Ms. Morales asked if Section 4 is to remove her position as Liaison to the Council.

Mr. Nava answered that it does not restrict the City Council from appointing her position except it doesn't speak to it.

Ms. Morales made a comment that she will not resign her position as liaison.

Mr. Varela asked if the fact that because of his job he is working with a customer and can't get away to go to the meeting, if that would be an acceptable excuse.

Mr. Nava explained that in his personal opinion it would be but that it would depend on the Members of the Committee.

Atty. Flores clarified that in Section 2, it reads that the Committee will consist of 5 members and that the Mayor, a Council Member or the City Manager will serve on the Committee and serve as the Liaison, which means that the way it reads there is no room for Ms. Morales to be part of the Committee.

Mr. Nava explained that the provision allows but it does not include the Liaison.

Mr. Flores suggested that it be changed to say that it should consist of 5 members and one Ex-Officio member. He also commented that the Resolution written by Staff recommends that the Committee be a 5 member committee plus a Liaison.

Mr. Shook asked that if the committee consists of 5 voting members with an Ex-Officio member that means that any Ex-Officio is non-voting. If it is 7 members of which one is the Liaison they may have the privilege to vote. If the Liaison is a voting member then the Committee should be a 7 member Committee.

Mr. Nava commented that if the status of Independent Committee is to be established than the City Council cannot be part of the Committee.

Atty. Flores inquired about the need to name the Finance Committee as an Independent Committee when the Charter states that the Mayor, Council Members and City Manager can serve on the Committee. It cannot be independent.

Mr. Shook explained that this Committee has always operated as an Independent Committee being that the Council never told it when to meet or anything else. The focus has always been on discussing and passing the budget. He explained that it has been a good thing that Council has been represented because the last couple of years have been hard on the budget perspective. He feels that because of that representation the Mayor and Council have been more confident in passing the budget as recommended. There have also been times when the Committee has looked to the Council Members while deciding on a recommendation. One thing he wanted to reiterate is that everyone is in agreement and it is in the Charter and in past Resolutions that the Committee is an Advisory Committee. When it is called an Independent Committee or it is said that it is meant to monitor or oversee then the meaning of it being an Advisory Committee is changed from what was meant to be the purpose in the early 90's. In doing this Professional Staff who is trained and works with this on a daily basis will be overlooked. There is already a series of controls in everything that is done from cash handling to deposits. And by State Law the City is subject to an independent third party audit by a CPA firm that is certified by the State of Arizona.

On Mr. Nava's motion to AMEND BY SUBSTITUTION, that Mr. Caveny seconded, there was a call for the question and the motion. Motion failed 3 – 1.

Mr. Flores explained he will modify the proposed Resolution and will include some of Mr. Nava's suggestions.

Mr. Nava made a motion to TABLE CONSIDERATION OF PROPOSED RESOLUTION. Mr. Caveny second the motion. There was a call for the question and the Motion passed by a vote of 3-1.

Liaison member did not vote on either item.

6. CHAIRMAN'S REPORT

Chairman's report was taken up before item #5

Mr. Mitch Lindemann began by reporting to the Committee Members in regards to Mr. Nava's actions throughout the summer. Mr. Nava has written countless mean spirited and threatening letters and emails to Mr. Lindemann stating what he perceived to be his lack of attention and strict adherence to the existing Finance Resolution. A fact that he has not disputed, in fact he has sought to address this concern, by stating a quarterly meeting would be held in September.

In these letters, Mr. Nava has accused Mr. Lindemann of malfeasance in office, Mr. Nava has demanded that his agenda and timeline be adhered to and he has demanded Mr. Lindemann's resignation from both his posts as Finance Committee Chairman and as Councilmember representing Ward 2. Mr. Lindemann addressed Mr. Nava directly by saying that he must have a huge ego like Mayor Gomez to think that he and he alone can dictate the agenda and meetings scheduled and how presumptuous of him to presume that he who is not even a member of his ward would demand his resignation. Mr. Lindemann also asked Mr. Nava if he believed that the City Government must be shut down because present practices are not the same as the old days. Today the City Finance Department is staffed by trained professionals. Not once has Mr. Nava personally asked Mr. Lindemann to review any possible discrepancies or engage in civil discourse concerning these possible discrepancies between the resolution and current practices even though he had acknowledged the practices today have evolved and become more professional than what was stated in the original resolution and that the resolution needed to be updated. From the first meeting of this Committee following Mr. Nava's appointment, Mr. Nava has sought to discredit, intimidate, and bully Mr. Lindemann to gain political advantage. It has become clear to Mr. Lindemann that Mr. Nava's intent has been to embarrass, harass and prosecute Mr. Lindemann personally and professionally because of these actions. Mr. Lindemann believes Mayor Gomez has placed Mr. Nava in this Committee to carry out his questionable agenda. Mr. Lindemann believes that Mr. Nava's resignation to the Committee is in order since it has become painfully obvious that Mr. Nava's intent is not to serve the best interest to the community. Even so, Mr. Lindemann has initiated the process of rewriting the Finance Committee's Resolution to better reflect the current and more professional duties which have evolved concerning the City of Douglas Finance Committee.

Mr. David Caveny commented that he thinks it's unfortunate that this has been said. He said he has known Mr. Nava for 47 years and he is a remarkable individual. He doesn't believe anything that was said was meant to be mean spirited and he hopes that both Mr. Nava and Mr. Lindemann can get along.

Mr. Lindemann thanked him and informed him that he was the recipient of all the letters and nasty emails.

Ms. Margaret Morales commented that she has seen the letters and they could have been written in a more professional manner.

Mr. Victor Varela asked if there was a specific reason why they were addressed to Mr. Lindemann instead of to the Committee as a whole.

Mr. Mike Nava answered that they were address to him directly because he is the Chairperson, and that feelings expressed are only perceptions..

Mr. Varela explained that as a Chairperson, Mr. Lindemann does not only represent one member he represents the Committee as a whole. He also said that he has not seen these letters himself. He also said it is somewhat disappointing to see the Committee come to this situation because they are there to help the City and believes it's detrimental to them as a City. He also expressed that all this is a surprise to him since he has not seen the letters and it's the first time he hears about this.

7. FINANCE COMMITTEE MEMBERS REPORT

None.

8. MANAGER'S REPORT

Mr. Shook explained that in the first 2 months of the fiscal year, everything is running steady between Revenues and Expenditures, all the Enterprise Funds are running good. Beginning in September, the sales tax will be tracked to see what effect the loss of Safeway has created.

9. CITY TREASURER'S REPORT

None.

10. ADJOURNMENT

Mr. Mike Nava entertained a motion to adjourn at 7:11 p.m. Mr. David Caveny seconded the motion. There was a call for the question and the Motion passed 4-0. Liaison member did not vote.

Respectfully submitted by

Lorenza M. Rascon
Finance Committee Secretary