

Utah League of Cities and Towns
Legislative Policy Committee Minutes – February 24th, 2020, 12:00 p.m.
Utah State Capitol – Senate Building Room 210 (and Zoom webcast)

1. Welcome, introductions, logistics, and adoption of February 10 and 17, 2020 minutes
 - ULCT 1st Vice President Mike Caldwell welcomed the LPC into session. The LPC voted to adopt the minutes from February 10 and 17.
2. Legislative items:
 - a. UPDATE: Land use legislation
 - i. H.B. 273 Property Rights Ombudsman Amendments
 - ULCT Executive Director Cameron Diehl and ULCT Director of Government Relations Victoria Ashby updated the committee on the status of HB 273. Cameron said that the bill's supporters have expressed that they want an enforcement remedy greater than attorney fees against a city (not an individual) for any willful misconduct that violates state or local law. Cameron outlined ULCT's concerns as:
 - Weaponization of the Property Rights Ombudsman (PRO)
 - Potential chilling effect on city officials acting in the scope of duties
 - Preservation of governmental immunity
 - Cameron reiterated that the last position LPC took on the bill was to oppose it and although there is no need for another vote, it may help with symbolic purposes. Bountiful City Manager and ULCT Board Member Gary Hill made a motion to oppose HB 273 because it weaponized the PRO, created compensatory or actual damages, and waived governmental immunity. The motion was approved unanimously. Cameron asked LPC members to reach out to their representatives on the House Business and Labor committee.
 - ii. H.B. 374 Local Government Building Regulation
 - Victoria briefed the LPC on HB 374. HB 374 allows a construction applicant to opt out of a city inspection if a licensed architect, structural engineer, contractor, or building inspector stamps the project. It also stipulates that municipalities may not regulate exterior residential building design elements on single-family residences. She added that Representative Ray is currently working on a substitute that adds a menu item to last year's SB 34 moderate income housing strategies. This optional item could be adopted in ordinance and would reduce non-structural residential building design elements for housing that addresses 80% AMI or less, in exchange for increased density or adjusting other regular subdivision requirements. The proposed substitute would also submit the following information to ULCT for

single-family residential, multi-family residential and commercial developments:

- The average time from request to inspection,
 - The longest wait from request to inspection,
 - Reasons for delay, and
 - How often an inspector other than a city-employed building inspector was used.
- And for plan reviews of single-family residential, multi-family residential, and commercial developments:
 - The average time from request to completion of plan review,
 - The longest wait for plan review,
 - Whether your city uses a list attached to the plans for small items, and
 - What items cause the return of plans to the engineer?
 - Victoria explained that ULCT will compile this information and report back to the Legislature during the 2020 October interim. Layton City Attorney Gary Crane emphasized that this would be an optional item in the moderate-income housing menu and that reporting to ULCT would help provide real data to inform the discussion going forward. The bill is expected to be substituted or amended in committee.
- iii. H.B. 359 Municipal Annexation Revisions
- Victoria briefed the LPC on HB 359. HB 359 only applies to counties of the 2nd – 6th classes. It would allow annexation to create an unincorporated island or peninsula if the area is within the annexing municipality's expansion area, the municipality and the county both agree to the annexation, the annexation is not within the area of another municipality's annexation policy plan, and the annexation is for the purpose of providing services to the area.
- iv. Impact Fees
- Cameron warned that there could be a bill this session to impose a moratorium on new impact fees. There's only one impact fee bill out right now and it's HB 305 Impact Fee Amendments. HB 305 did not go through the land use task force. Cameron reported that the Governor told ULCT officers that he would like to see the League have a broader discussion about the future of impact fees. Additionally, a bill was recently released that changes the relocation distance for billboards. More land use legislation could pop up in coming days.
- v. HB 388: Land Use Development and Management Act Revisions
- Victoria introduced HB 288 as the Land Use Task Force's annual bill. The bill makes several changes including:
 - defining "adversely affected party" for the purpose of protesting land use applications. They are parties who own real

property adjoining property subject to a land use decision and/or parties who suffer damage different in kind, or injury distinct from the general community and participate in public hearings on the application/decision or own real property within the area that received mailed notice of the proposed application/decision.

- Bringing the definitions of gas, electric, and telephone corporations for the public utility code and defines them again for the purposes of LUDMA and a municipal utility easement.
- Specifying that a gas, electrical, or telephone corporation that holds an easement located in a utility easement may exercise each power of a public utility for purposes of the public utility easement.
- Clarifying the definition of “subdivision amendment”
- Requiring planning commissions to hold a public hearing before recommending general plan/amendment or land use regulation
- Specifying that land use applications approved by a county is not affected by subsequent incorporation of the property.

b. UPDATE: Other legislation

i. H.B. 190 Local Government Cooperation Contracts (1st Sub)

- Victoria updated the LPC on the status of HB 190. Currently, private or public entities must meet state standards to be a public or private provider. The EMS bureau draws licensed provider’s service areas to ensure coverage throughout the state. Those service areas may not necessarily be along the boundaries of political subdivisions (extraterritorial service). EMS is often considered underfunded, because it’s largely funded on transportation fees but there is no fees collected if there’s not actually transportation of a patient. Victoria requested the LPC provide guidance to help staff form a position. She offered the concerns expressed by the two sides of the issue - since there is nothing in law that mandates reimbursement of external service providers, there may be inequality in revenue to provide the service. The other side’s concern is that service recipients may be double taxed and don’t have as much representation or negotiating power in the contract-setting process. The committee decided to hold HB 190 on Friday. The 1st substitute requires each municipality and county to provide EMS services or contract for it. It creates an EMS mediation panel within the Department of Health. If the panel can’t come to a resolution, the provider may be asked to be released from the obligation. Either party can then request binding arbitration. The arbitrator may release the provider from obligation or set the per capita

- cost and service level. Victoria reiterated that ULCT is currently TBD on the bill and would like guidance.
- Mayor Holly Daines of Logan explained that Logan is trying to fix an issue. She expressed that the city is in a catch-22 because they have no means of collecting revenue since they cannot stop providing extraterritorial service. As other communities grow, the city is concerned about their ability to continue to fund the service. The bill is an unfunded mandate but so is the status quo. Mayor Daines stated that the bill requires mediation and arbitration and the substitute is a good solution.
 - Nibley City Manager David Zook explained that previously they were part of an interlocal agency to provide the service and Logan City decided to withdraw from the interlocal because of those concerns. David said the region is conducting a county-wide study to examine the funding issue. David agreed that there's an unfunded mandate on both sides of the issue. He reported that the committee voted to hold the bill to study it more and suggested we form an interim task force or committee to study the issue further.
 - St. George City Attorney Shawn Guzman expressed concerns that there may be additional statewide consequences for local governments that contract with private companies to provide the service. He explained that an arbitrator could overturn the lengthy process that St George went through to craft an ordinance and address their issue. He said St George would be opposed to the bill as currently drafted.
 - West Valley City Community Development Director Nicole Cottle said West Valley experienced a much lengthier process than St George and understood the complexity of the issue. She stated that the policy discussion underlying the EMS bureau is so critical that she would encourage a more comprehensive discussion as a group outside of the legislative session.
 - Mayor Daines added that the issue is much broader than Cache County and the UAC has become involved in the discussion.
 - Mayor Caldwell reiterated that the current staff recommendation is TBD and asked the LPC if they would like to take a position on the bill. Mayor Pike motioned to oppose and hold the bill to take it to interim to work through the issue. The LPC voted to oppose the bill and look at the problem in the interim.
- ii. S.B. 163 Community Reinvestment Agency Amendments
- ULCT Senior Policy Advisor John Hiskey introduced SB 163 to the committee. The bill creates an optional tool for municipalities. It allows Community Reinvestment Agencies (CRA) to become a separate taxing entity utilizing the assessed new growth within a CRA at the expiration of a project area. The governing authority would still

rest with the city's elected officials. John said that Senator Harper set up a meeting this morning with representatives from cities, counties, and the Utah Redevelopment Association (URA). The concern was raised that the bill had been released so late in the session.

Representatives from several entities requested the bill go to interim.

- Sandy City Economic Development Director Nick Duerksen explained the bill. He said there has been a lot of discussion amongst RDA project areas about how various groups participate in RDAs. This tool would allow projects to be city-wide and wouldn't necessarily require participation from other taxing entities. It would reduce the necessity of financial involvement from other taxing entities and provide a stable ongoing tool that could also be used for projects outside of traditional project boundaries. Nick emphasized that the tool is optional for all cities and other taxing entities can still decide to participate.
 - John added that three groups have been involved in the discussion with legislative policy committees – ULCT, UAC, and the Taxpayers Association. Senator Harper suggested three options: accept the bill as-is, move it to interim, or go ahead with the bill but delay the implementation date for a year to work on it.
 - Cameron asked the LPC for general direction on how to proceed on the bill. He suggested it could either be a vote today or a small subgroup to meet over the next few days.
 - Mayor Caldwell stated that the staff recommended position on the bill was TBD. The LPC voted to oppose the bill and move it to interim for further discussion.
- iii. S.B. 150 Transportation Governance and Funding Amendments
- Cameron provided a brief background on recent transportation funding reforms including HB 362 (2015), SB 136 (2018), SB 72 (2019) and SB 34 (2019). SB 150 makes changes in three categories:
 - Transit – the bill eliminates the caps on TOD partnerships, extends SB 34 housing requirement to eligibility for transit projects, requires cities to have a station area plan, and amends the UTA advisory council.
 - Roads – the bill requires UDOT to create a statewide plan for Road User Charge implantation in 2031 by June of 2021.
 - Funding tools – the bill authorizes state participation with sales tax in TRZs, allows the direct imposition of 1st and 2nd quarters, changes the B&C distribution for city and county projects only within Salt Lake County, increases the car rental tax from 2.5 – 4%, and reduces the registration fees for alternative fuel cars.
 - Cameron said the current staff recommendation was to support.
- iv. H.B. 353 Internal Investigation Amendments

- Victoria explained HB 353. The bill prohibits law enforcement agencies from investigating criminal allegations against its members or employees. Victoria added that Representative Hall reached out ULCT staff to find ways to improve the bill.

3. Litigation items:

a. S.B. 169 Transportation Utility Fee Amendments

- Cameron Diehl updated the LPC on the Pleasant Grove transportation utility fee case. SB 169 is being pushed by The Libertas Institute, who sued Pleasant Grove. The bill just deletes the phrase “or tax” from the portion of code that codified the definition of transportation utility fee. Cameron requested city attorneys review the language and provide staff with feedback on the bill.

4. Other legislative issues and questions from membership

- HB 298 Victim Guidelines for Prosecutors
 - John stated that LELC took a vote to oppose the bill because it took away discretion from law enforcement agencies who certify U-Visa forms. The LPC voted to oppose HB 298.

5. Ratify staff recommendations

- The LPC voted to ratify staff recommendations.

6. Adjourn