



CITY OF SURPRISE
Local Fire and Police Joint Meeting
16000 N. Civic Center Plaza
Surprise, AZ 85374

Thursday, December 19, 2019 @ 9:00 AM
COUNCIL OVERFLOW ROOM

- A. Call To Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Current Events and Reports
- E. Staff Reports
- F. Local Fire and Police Joint Meeting Agenda

CALL TO THE PUBLIC:

INSTRUCTIONS: In order to address the Board\Commission, you will need to fill out a Call to the Public Form available at the front counter, and then turn it in to the Secretary before the meeting begins.

Note: A.R.S. 38-431.01(H) - During this time members of the public may address the Board\Commission only on issues within the jurisdiction of the Board\Commission which are not an item on the agenda. At the conclusion of the open call, the Board\Commission may respond to criticism, may ask staff to review the matter or may ask that the matter be put on a future agenda. No discussion or action shall take place on any item raised.

CONSENT AGENDA:

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

- | | | | |
|----|----------|---|-----------------|
| 1. | Citywide | Discussion regarding a conflict of interest as it pertains to Mayor Skip Hall. | Human Resources |
| 2. | Citywide | Discussion regarding letter from Senator Paul Boyer regarding violations by the City in regards to the boards. | Human Resources |
| 3. | Citywide | Discussion regarding the PSPRS State Board's letter regarding violations by the City in regards to the boards. | Human Resources |
| 4. | Citywide | Discussion related to the removal of former board member Don Jeffrey. | Human Resources |
| 5. | Citywide | Discussion regarding the removal of former board Chair Scott Gwaltney. | Human Resources |
| 6. | Citywide | Discussion regarding conflict of interest as it pertains to board member Jim Conner. | Human Resources |
| 7. | Citywide | Discussion and action related to establishing a vetting process for the selection of the local Board Secretary and Legal Counsel positions. | Human Resources |
| 8. | Citywide | Discussion and action regarding review and comparison of State statute and local board bylaws. | Human Resources |
| 9. | Citywide | Chairman's statement to the Board. | Human Resources |

10. Citywide Acknowledgement of Code of Conduct.

Human Resources

G. Other Business and Future Agenda Items

H. Executive Session

For information purposes: Upon a public majority vote of a quorum of the Public Safety Personnel Retirement Commission ("Commission"), the Commission may hold an executive session, which will not be open to the public, but for only the following purposes: discussion or consideration of records exempt by law from public inspection (A.R.S. §38-431.03(A)(2)); or discussion or consultation for legal advice with the Commission's attorneys (A.R.S. §38-431.03(A)(3)).

Confidentiality Requirements: Pursuant to A.R.S. §38-431.03(C)(D), any person receiving executive session information pursuant to A.R.S. §38-431.02 shall not disclose that information except to the Attorney General or County Attorney or by agreement of the Commission, or as otherwise ordered by a court of competent jurisdiction.

The Commission may vote to hold an executive session for the purpose of obtaining legal advice from the Commission's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3).

I. Adjournment

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED: December 17, 2019 @ 1:35 pm; amended on 12/17/2019 @ 5:13 p.m.

SPECIAL NOTE: PERSONS WITH SPECIAL ACCESSIBILITY NEEDS, INCLUDING LARGE PRINT MATERIALS OR INTERPRETER, SHOULD CONTACT THE CITY CLERK'S OFFICE @ 623.222.1200 OR TTY 623.222.1002, BY NO LATER THAN 24 HOURS IN ADVANCE OF THE REGULAR SCHEDULED MEETING TIME.



CITY OF SURPRISE
Local Fire and Police Joint Meeting

Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Discussion regarding a conflict of interest as it pertains to Mayor Skip Hall.

Motion:

N/A

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



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Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Discussion regarding letter from Senator Paul Boyer regarding violations by the City in regards to the boards.

Motion:

N/A

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:

1. Senator Boyer Letter
-

SENATOR PAUL BOYER

1700 WEST WASHINGTON
PHOENIX, ARIZONA 85007-2844
CAPITOL PHONE: (602) 926-4173
TOLL FREE: 1-800-352-8404

pboyer@azleg.gov

DISTRICT 20



Arizona State Senate

December 12th, 2019

COMMITTEES:

EDUCATION
Vice Chairman

HIGHER EDUCATION &
WORKFORCE
DEVELOPMENT

FINANCE

Honorable Mayor Skip Hall
City of Surprise
16000 N. Civic Center Plaza
Surprise, AZ 85374

RE: Local Board Independent Legal Counsel & Secretary

Dear Mayor Hall,

It has been brought to my attention that actions by the City of Surprise, via the City Attorney, as it relates to the governance of the local City of Surprise Police/Fires pension boards may be contrary to law.

Specifically, as stated in the letter sent to members of the local City of Surprise PSPRS board from Mr. Bret H. Parke, General counsel of the State PSPRS Board, dated November 12, 2019 which states in part:

"In short, Local Boards have unambiguous statutory right, pursuant to A.R.S. § 38-847, to independent legal counsel and to elect a Local Board Secretary that cannot be reserved, prescribed or otherwise dictated by the employer. This authority exists regardless of the fact that statute requires the employer to pay all costs for such services and administration of the System by the Local Board, or that the employer and Local Board must share sensitive information about employees for Local Board discussion and action.

As provided in the attached Fund Manager Opinion 2007-01, the Arizona Legislature vested Local Boards with the power and duty to administer the System. PSPRS' position regarding the Local Board's right to "independent legal counsel" means, in conformance with statutory interpretation and common meaning, counsel not influenced or controlled by any of the three parties whose rights are generally adjudicated by Local Boards, including the System, the employer or the employee.

A.R.S. § 38-847 provides:

A. The administration of the system and responsibility for making the provisions of the system effective for each employer are vested in a local board...

K. When making a ruling, determination or calculation, the local board shall be entitled to rely on information furnished by the employer, a medical board, the board of trustees, **independent legal counsel** or the actuary for the system.

M. The local board shall adopt such bylaws as it deems desirable. **The local board shall elect a secretary** who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings in compliance with chapter 3, article 3.1 of this title and forward the minutes and all necessary communications to the board of trustees as prescribed by subsection G of this section.

N. **The fees of the medical board and of the local board's independent legal counsel and all other expenses of the local board necessary for the administration of the system shall be paid by the employer** and not the board of trustees or system at such rates and in such amounts as the local board shall approve. **Legal counsel that is employed by the local board is independent of the employer and any employee organization or member and owes its duty of loyalty only to the local board in connection with its representation of the local board."** (bold mine)

I have been advised that the local PSPRS board have had (6) six attorneys over the past approximately 19 months, none of which have been independently selected by the board. I have also been advised that the City of Surprise hires the board Secretary without board election or input.

Furthermore, it is concerning that at least two members of the local board have been removed recently as these matters became a topic of discussion in recent months.

It is my understanding that City Attorney Wingo cites as his authority to hire and fire the boards' attorney lies in City of Surprise local city codes 2-142 & 2-295. While this may provide him the local authority in general, it does not allow him to do so contrary to Arizona state law.

Based on information I have seen and that which has been reported to me, it appears there is merit for concern that the City of Surprise may be in violation of Arizona state law as stated in the letter from PSPRS dated November 12, 2019.

Therefore, I believe the equitable course of action is for the City to reconstitute the local PSPRS police/fire boards to their original configuration prior to the removal of board members - Scott Gwaltney, Don Jeffrey, and allow them to follow the law as it pertains to the selection of the boards' independent attorney and for the election of a board Secretary.

If the situation cannot be satisfactorily resolved, I am prepared to file a 1487 complaint with the Arizona Attorney General to gain compliance with the law.

Please contact me if you would like to discuss this matter further.

Respectfully,

Senator Paul Boyer

CC:



CITY OF SURPRISE
Local Fire and Police Joint Meeting

Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Discussion regarding the PSPRS State Board's letter regarding violations by the City in regards to the boards.

Motion:

N/A

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



CITY OF SURPRISE
Local Fire and Police Joint Meeting

Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Discussion related to the removal of former board member Don Jeffrey.

Motion:

N/A

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



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Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Discussion regarding the removal of former board Chair Scott Gwaltney.

Motion:

N/A

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



CITY OF SURPRISE
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Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Discussion regarding conflict of interest as it pertains to board member Jim Conner.

Motion:

N/A

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



CITY OF SURPRISE
Local Fire and Police Joint Meeting

Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Discussion and action related to establishing a vetting process for the selection of the local Board Secretary and Legal Counsel positions.

Motion:

I move to accept the following vetting process for the selection of the local Board Secretary and Legal Counsel.

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



CITY OF SURPRISE
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Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Discussion and action regarding review and comparison of State statute and local board bylaws.

Motion:

I move to make the following changes to the local board bylaws.

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



CITY OF SURPRISE
Local Fire and Police Joint Meeting

Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Chairman's statement to the Board.

Motion:

N/A

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



CITY OF SURPRISE
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Council Meeting Date: December 19, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Acknowledgement of Code of Conduct.

Motion:

N/A

Background:

N/A

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:

1. Code of Conduct Police
 2. Code of Conduct Fire
-

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (PSPRS)
POLICE BOARD MEMBER ETHICS**

Board members will strive to maintain and improve the integrity of the Public Safety Personnel Retirement System, and to that end will:

- A. Attend all Board meetings insofar as possible, and become informed concerning the issues to be considered at those meetings;
- B. Recognize that decisions should be made only after discussion at publicly held Board meetings;
- C. Render all decisions based on the available facts and independent judgment, and refuse to surrender that judgment to individuals or special-interest groups;
- D. Encourage the free expression of opinion by all Board members, and seek systematic communications between the Board, PSPRS members and all elements of the community;
- E. Work with other Board members to establish effective Board policies in compliance with State statutes;
- F. Be informed about current PSPRS issues by individual study and through participation in programs providing needed information, such as those sponsored by the state;
- G. Support the employment of persons best qualified to serve in the capacity of Public Safety, i.e. Police Officer, Fire Fighter;
- H. Avoid the potential for a conflict of interest, recuse yourself if you believe it is in the best interest of the integrity of the Board and refrain from using your Board position for personal or partisan gain;
- I. Take no private action that will compromise the Board or administration, and respect the confidentiality of information that is privileged under applicable law; and
- J. Remember always that a Board member's first and greatest concern must be to maintain the integrity of the Public Safety Personnel Retirement System for the betterment of all its members, active or retired.

Printed Name

Signature

Date

Adopted: December 10, 2019

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (PSPRS)
FIRE BOARD MEMBER ETHICS**

Board members will strive to maintain and improve the integrity of the Public Safety Personnel Retirement System, and to that end will:

- A. Attend all Board meetings insofar as possible, and become informed concerning the issues to be considered at those meetings;
- B. Recognize that decisions should be made only after discussion at publicly held Board meetings;
- C. Render all decisions based on the available facts and independent judgment, and refuse to surrender that judgment to individuals or special-interest groups;
- D. Encourage the free expression of opinion by all Board members, and seek systematic communications between the Board, PSPRS members and all elements of the community;
- E. Work with other Board members to establish effective Board policies in compliance with State statutes;
- F. Be informed about current PSPRS issues by individual study and through participation in programs providing needed information, such as those sponsored by the state;
- G. Support the employment of persons best qualified to serve in the capacity of Public Safety, i.e. Police Officer, Fire Fighter;
- H. Avoid the potential for a conflict of interest, recuse yourself if you believe it is in the best interest of the integrity of the Board and refrain from using your Board position for personal or partisan gain;
- I. Take no private action that will compromise the Board or administration, and respect the confidentiality of information that is privileged under applicable law; and
- J. Remember always that a Board member's first and greatest concern must be to maintain the integrity of the Public Safety Personnel Retirement System for the betterment of all its members, active or retired.

Printed Name

Signature

Date

Adopted: December 10, 2019



CITY OF SURPRISE
Local Fire and Police Joint Meeting

Council Meeting Date: December 19, 2019
Submitting Department: Agenda Creation
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Executive Disclaimer (PSPRS)

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:
