

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD DECEMBER 23, 2013, AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor King called the meeting to order at 7:00 p.m. with the Pledge of the Allegiance. Mayor King then introduced Pastor Kirk Sorenson of the First Assembly of God who gave the invocation.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Al Sacco, Councilmembers Pat Boyle, Ron Brooks, Jeff Cook and Chris Moncada. Absent was: Councilmember Peter Wangness.

EMPLOYEE RECOGNITION: None

PROCLAMATION: None

PUBLIC HEARING: The Mayor and Council will be available to receive comments from the public regarding the use of approximately \$170,697 in Fiscal Year 2014 Federal Community Development Block Grant (CDBG) funds from the Arizona Department of Housing Regional Account (RA).

Mayor King asked City Clerk Vicki Vivian to address the Council. Ms. Vivian stated this was the second public hearing, adding the first public hearing was held on December 9, 2013. Ms. Vivian then read a statement informing the public about the CDBG funds and criteria the projects must meet to be eligible for the funding. Mayor King then opened the public hearing at 7:03 p.m. stating there was no one signed up to speak during the public hearing and asked if there was anyone present who wished to speak.

Councilmember Brooks stated he would like the advertisement for the public hearings to be advertised earlier so citizens would be able to give their input. Councilmember Brooks then stated blight conditions are covered under this type of grant, adding people he has spoken to think the City should work with residents who have violations and if those people don't have money, the City could help them. Councilmember Brooks then stated he would like to direct the City Manager to look at that with the next CDBG grant funds, adding the City could have a lot of the homes repaired and brought into compliance while also cleaning up the City. Interim City Manager Brad Hamilton stated he would take those comments into consideration for the next CDBG funding cycle. Councilmember Moncada stated he would still like to consider replacing the bathroom at Lions Park, adding it is not ADA compliant and he has received a lot of positive feedback on the new recently installed bathroom.

Ms. Vivian then addressed Council concerning the public hearing advertisements, saying State statutes require the City to publish public hearing notices at least 15 days prior but no more than 30 days prior to the public hearing. Councilmember Brooks asked if this procedure was followed with Ms. Vivian indicating it was.

Councilmember Brooks then asked when the Council would be taking action on the grant application with Mr. Hamilton stating the issue would be placed on the January 27, 2014 agenda.

Councilmember Boyle stated he would also like an emergency water pumping system generator on a flat-bed trailer to be considered in the future. Councilmember Boyle stated this would be used to pump water during emergency power outages and with the right type of electrical connections for the City wells, it could be driven from well to well, enabling the water tanks to be kept full in case of an emergency. Mr. Hamilton stated he would check that project for eligibility also.

Mayor King then asked if there was anyone else present who wished to speak. After receiving no requests to speak, Mayor King closed the public hearing at 7:08 p.m.

CALL TO THE PUBLIC:

Jared Riker stated he was the owner of RikerTek, and despite what is being said about him, he knew he had done nothing wrong and could hold his head up high. Mr. Riker stated he trusted that when the attorneys finished the investigation, no misconduct would be found against him or his company. Mr. Riker stated 99% of what was said about him in the Council chambers at the last Council meeting, on the radio and in the newspaper was wrong, was misguided information and was not the truth. Mr. Riker stated he is an open book and always has been, adding anyone who knows him, knows they simply just have to ask him. Mr. Riker stated he has nothing to hide; he never has and never will, adding again, no one has asked him, yet he has been accused of intentionally losing emails to protect others, when in fact, the emails of Jim Cox are actually the first mailbox he was able to recover, noting the emails are intact and in the possession of the City at this time. Mr. Riker then stated he regrets the emails being lost in the first place and understands the hardship it causes, but he wanted to assure Council it was not done with malice, adding it was simply an equipment failure by old, aging equipment with backup measures also failing. Mr. Riker stated in everything he does, he tries his best and gives it his all, adding sometimes, he fails but the City's network system had been his life for years. Mr. Riker then stated there is a lot to this story and a lot of truth that is not being said. Mr. Riker stated in February, 2013, he was asked by then City Manager Glenn Nichols to take over the IT service at the City, adding he was very reluctant and noted he quit his job at the City because it was causing health problems and too much havoc in his family life. Mr. Riker stated since taking over earlier this year, his company accomplished many large projects and recovered from a few different serious equipment failures by aging equipment, adding he has worked hard to maintain the City's systems by working long hours and many nights, noting he has had weeks of working 100+ hours on the system and billing much less. Mr. Riker then stated he has tried with all his heart to look to God for guidance in his business and in his personal relationships and it is regretful Council has allowed one more business to be destroyed by false allegations, adding because of these allegations, the business he started and built from the ground up will now have to lay off two employees the day before Christmas. Mr. Riker then stated these last few weeks have taken enough of his attention away from his true focus and the reason for the season which is to enjoy the gift of God's son and to celebrate his birth with his wife and children. Mr. Riker then stated no matter the outcome tonight, he would like to make himself available upon request to the City Manager for questions regarding the IT systems and to the City Attorneys regarding the investigation. Mr. Riker stated the City has had technical problems from day one and through hard work and diligence, the City is in a much better position today, adding he hopes before he is judged, that he is given the opportunity to answer questions, not accusations, but true questions that help open communication to help clarify what has been done and why. Mr. Riker then wished everyone a Merry Christmas, adding his wish that 2014 bring more harmony and common goals for strengthening the City, not creating division. Mr. Riker stated he truly wanted to thank the City and the Staff for the wonderful opportunities they have given him and his family.

J.T. Moffett asked for extra time, stating he had vital information; facts, not impassioned pleas, to share that are pertinent to the ongoing IT investigation. Mayor King granted Mr. Moffett extra time to address the Council. Mr. Moffett then stated he first wanted to correct himself for an error he made at the last Council meeting, adding the City did not purchase iPads from RikerTek. Mr. Moffett then stated he had so much information that he failed to verify that statement. Mr. Moffett stated City Clerk Vicki Vivian followed all protocol and price checking and purchased the iPads from Zones; then apologized to Ms. Vivian. Mr. Moffett then stated as an update, the records request from Councilmember Brooks for all of Jim Cox's emails has still not been fulfilled, adding a few weeks ago, he was told the email server crashed and all the records were lost with the backup server being corrupted as well, so the request could not be fulfilled. Mr. Moffett then stated the whole scandal blew up, becoming public knowledge with the Council calling for an investigation into RikerTek's practices and two weeks later, eureka, the records were found. Mr. Moffett stated first he was told the records were lost and unrecoverable, but now suddenly, he was told all of Jim Cox's emails were recovered and asked if RikerTek was serious. Mr. Moffett then stated this is what happens when the party being investigated is allowed to still have access to the records and equipment while they are under an investigation.

Mr. Moffett then stated one way to find out the truth would be to have the attorneys bring in an outside IT professional to examine the history and equipment, adding no company or entity ever allows the person or entity under investigation to have access to the records or material involved in the case; they are always suspended or removed from the scene until the investigation is completed. Mr. Moffett then asked how anyone would know Mr. Riker was not covering his tracks; hence, the need to terminate RikerTek services immediately. Mr. Moffett then stated Mr. Riker should not be allowed on the premises or to have remote access to the City's files, adding that would be like the police arresting someone for a crime and handing them all the evidence and asking them to let the police know what they thought. Mr. Moffett then stated this scandal has all the ingredients of a cover up with a verbal contract with no written record, no Council approval or bids, various records request being returned unfilled, lost emails being miraculously found and so on. Mr. Moffett then stated this Council must press forward and keep digging until all the truth comes out, adding for far too long, Staff's word has been taken on questionable issues and the public has suffered under the direction of Jim Cox and what Mr. Moffett calls "creative accounting." Mr. Moffett then stated in his research, he went back to the history of Jim Cox and Jared Riker, adding the City had an IT professional named Sage Scholer and one day Finance Director Jim Cox called Mr. Scholer into his office and informed him that Jared Riker was going to be the IT specialist. Mr. Moffett stated when Mr. Cox was questioned by Mr. Scholer as to why; he was told by Jim Cox that Mr. Cox made the decision. Mr. Moffett stated Mr. Scholer was given the option of making himself available to Mr. Riker or to pack up his things and Mr. Scholer decided to leave that day. Mr. Moffett then stated Mr. Scholer cost \$55,000 for the year with parts and labor and then asked why the Finance Director was doing what is clearly the City Manager's job and responsibility and asked if then City Manager Glenn Nichols knew about this and if Mr. Nichols directed it, adding Council needs to find out. Mr. Moffett then stated the records show that on February 25, 2011, Jared Riker's employment with the City of Benson was terminated and his ending salary was \$35,006, adding two months later, Mr. Riker was hired back as RikerTek, an independent contractor with no RFP, no competitive bids and no Council approval. Mr. Moffett stated as of December, 2013, RikerTek invoiced the City of Benson over \$200,000 for just this year, adding \$140,465 of that went into his pocket as income. Mr. Moffett then stated moving forward to August of this year, a red flag was raised by the new Finance Director, so Mr. Cox called a meeting with RikerTek and Finance Director Megan Moreno and once again, Jim Cox decided that RikerTek would be paid \$3,200 twice a month, in essence making a contract with RikerTek for \$76,800 a year without Council approval or knowledge, with no bids and no RFP. Mr. Moffett stated in October of this year, Jim Cox stated he had decided that the procurement code did not apply when he hired an attorney firm without Council approval for \$10,000 to carry out what Mr. Moffett believes is a personal vendetta and a witch hunt against Councilmember Brooks. Mr. Moffett stated what is seen here is a pattern of a loose cannon abusing his authority and overstepping the boundaries set by City codes. Mr. Moffett stated in his research he asked where the money for RikerTek shows up in the budget and has the records that show Jim Cox set up the budget so each department has its own IT budget. Mr. Moffett then stated Mr. Cox budgeted \$120,000 for IT services and no one caught it, which is again, an example of creative accounting; hiding the inflated cost by splitting it up into each department's budget. Mr. Moffett stated not once was Council informed of the total cost for RikerTek before they approved the budget and no one knew until Councilmember Brooks was told he would not get his records request for Jim Cox's emails and blew the lid off this can of worms. Mr. Moffett stated sooner or later when someone is being unscrupulous, they slip up and because of the suspicious lost emails, he now knows that Jared Riker got a 400% pay increase in two years, adding all this appears to be authored by the handiwork of James F. Cox. Mr. Moffett then stated Vice Mayor Sacco made an extensive records request recently concerning RikerTek's business practices and procedures and one of the vital requests was for the history of RikerTek's integrity tests on the servers, adding any IT professional would confirm an integrity test must be done weekly on the main and backup servers to safeguard against corrupted files, but there was no record of RikerTek ever doing one. Mr. Moffett stated coupling that with the fact that RikerTek used Google as a government email server; Council can begin to see that Jim Cox made a huge mistake in promoting this amateur to be the City's sole IT professional. Mr. Moffett then stated he has a copy of a recent invoice from RikerTek for \$5,470 approved by Jim Cox on November 8 for fixing the email server, adding the City actually paid the guy who was responsible for the crash and was negligent, to fix his own mistake and this was after Jim Cox made the deal with RikerTek in August to take care of all the City's IT needs for a set price of \$6,400 per month. Mr. Moffett stated he was told by Councilmember Moncada and Staff that the Council cannot terminate RikerTek since there are no capable IT providers available tomorrow and that the City has to follow

the procurement process with an RFP before RikerTek can be dismissed, but nothing could be further from the truth. Mr. Moffett then stated the Council should put out an RFP, but in the meantime, they could terminate RikerTek's services tonight. Mr. Moffett then stated he had scoured the area and found 4 IT service technicians, adding he gave them to Council tonight. Mr. Moffett stated they are not contract proposals, but are merely available vendors, adding Council should consider them the yellow pages of IT service providers in Benson. Mr. Moffett stated it is no different than the refrigerator breaking down in the lunch room, adding an RFP isn't needed to call Benson Appliance to come fix it and by the same token, if a computer or other communications device breaks down, Interim City Manager Brad Hamilton can pick up the phone and call one of those repairmen. Mr. Moffett then stated on behalf of the members of this fine community, he was asking this Council to pursue both Jim Cox and RikerTek for any negligence, violations of City codes, double billing and whatever else is uncovered as to what applies to either or both of them. Mr. Moffett then stated he will be moderating a public awareness forum on City finances on January 21. Mr. Moffett stated most people are not aware of the drain on the reserve funds, adding in Fiscal Year 2010-2011, Jim Cox set aside \$208,028 from the reserve funds to balance his budget, in Fiscal Year 2011-2012, the figure grew to \$466,676 and in this past fiscal year, a staggering \$1,094,575 was set aside out of the taxpayers reserve fund to balance his budget. Mr. Moffett then stated on a side note, he was told that Mr. Garcia has convinced the attorneys to take Stagecoach Trails back to court to attempt to revoke a 2-year old permit, adding he would have more on that next session, but it is his understanding that any further monies paid out on the first Stagecoach Trails case is no longer covered by the City's insurance, but will come directly out of the taxpayers' reserve fund, adding that fund is at a 7-year low and is shrinking. Mr. Moffett then stated his forum will reveal to the public what is really happening to their tax dollars and will be using the public input to propose cuts in this June's budget. Mr. Moffett then stated he was saving the best for last, adding he has formed a recall committee and they will be pulling papers on January 2 to recall Councilmember Jeff Cook because they think it's time to fix another mistake.

Stephen Insalaco stated he would like to address the Council concerning New Business Items 2, 8 and 9 collectively and then about New Business Item 3. Mr. Insalaco stated he holds a Master's of Science degree in computer information systems from the University of Phoenix and his training tells him the most important role of any IT service entity is protection of the parent organization's information; past and present documents. Mr. Insalaco then stated while network management, software installation and configuration, general support desk functions and maintenance of basic computer equipment and peripherals are important aspects of any IT service organization, it is the parent organization information protection that must be given the highest priority. Mr. Insalaco stated the recent loss of the City's email archives and other important documents in electronic form demonstrate how the loss of the important information resources can adversely impact an organization. Mr. Insalaco then stated as Council addresses New Business Items 2, 8 and 9, they should consider the following questions as they decide the fate of RikerTek's contract; was RikerTek contracted to provide backup and archiving services for important electronic information resources for the City of Benson, by what method and had they failed to do so, suggesting a possible short-coming on RikerTek's part, or did the City of Benson fail to specify or require in writing the method of backup and archiving services for its important information resources, suggesting a possible short-coming on the City of Benson's part, did the City of Benson fail to specify or require backup archiving services for its important information services and did RikerTek fail to advise the City of Benson of the importance of providing this essential information protection service and if so, who should be assigned this failing to make these realizations or was this just a series of unfortunate events that occurred and is not really anyone's fault. Mr. Insalaco then stated the really important thing is that the City of Benson's important information resources including email and other important documents in electronic form, past and present, find themselves subject to a regular backup and archiving effort and can be readily retrieved on demand or following an IT system failure. Mr. Insalaco then addressed New Business Item 3, stating he cannot believe that there is any consideration of terminating the role of this important municipal committee. Mr. Insalaco stated terminating the Economic Development Subcommittee is the wrong answer, adding these are trying economic times, not just for the businesses and citizens of Benson, but also for the City of Benson, itself. Mr. Insalaco stated Finance Director Megan Moreno has outlined quite accurately the possible finance strife that lies ahead if certain actions are not taken and the City should not be eliminating avenues of economic development, but rather strengthening existing ones and creating new ones. Mr. Insalaco then suggested bringing in fresh ideas to the subcommittee's discussions by assigning new or

additional members and possibly finding new leadership if Council so chooses. Mr. Insalaco then stated the Council could assign specific tasks to the subcommittee, stating for example, if it was decided the City cannot go forward with the development of aircraft hangars for t-shades at the Benson airport, the Council could charter the subcommittee to come forward with suggestions of how the private commercial sector can develop the airport further. Mr. Insalaco then stated the Council could task the subcommittee to forward recommendations to solve other specific municipal economic issues. Mr. Insalaco then stated the subcommittee has an important role in the City government; it needs to meet more frequently, no less than once a month and it needs to be placing recommendations on the Council's bench every month, adding that doesn't imply that the subcommittee prosecute those recommendations or pay for them, but that it serves as a think tank for the Council in bringing diverse ideas to the City leaders, businessmen and citizens to solve economic problems.

Paul Lotsof addressed the Council regarding the way bills are paid by the City, stating he gave the Council a copy of a Council agenda dated May 3, 2004 and at the bottom of the agenda, there was a line item called "approval of bills." Mr. Lotsof stated he had been attending Council meetings since 1985 and between 1985 and 2004, the approval of bills appeared toward the bottom of each Council agenda and more than likely, it was present long before then. Mr. Lotsof stated at nearly every meeting, a member of the Council moved to approve the bills as presented, the motion carried and the bills were approved in about 1 minute, adding once in a while, a member of the Council would ask a staff member about a particular invoice, and in most cases the question could be answered to the Councilmember's satisfaction and the bills would then be paid. Mr. Lotsof stated on very rare occasions, the Council would decide to either delay a payment or not pay an invoice at all. Mr. Lotsof stated all that changed in mid-2004 when 2 big changes took place; the approval of bills was moved to the Consent Agenda and instead of having the Council approve bills before they were paid, the Council was asked to approve bills after they were paid. Mr. Lotsof stated neither of these changes was made with Council approval and they bring to mind the question of why the Council should approve bills that have already been paid, adding it reminds him of the old line about closing the barn door after the horse has left the barn. Mr. Lotsof then stated the present controversy involves invoices paid to RikerTek that were paid over a period of well over a year and it is important to understand that no great amount of research was necessary to find out how much RikerTek got, adding all the invoices paid were on the City's website for anyone to see, if they know where to find them. Mr. Lotsof then stated if no one bothers to look at the invoices, no one will be suspicious. Mr. Lotsof then questioned what would have happened had the system that was in place prior to 2004 been in place now, instead of the bills being buried in the Consent Agenda, adding the items to RikerTek would have been subject to Council scrutiny, and very likely the excess charges, if any, would have been spotted a long time ago. Mr. Lotsof then stated the Consent Agenda is for routine matters that don't require much attention, adding this evening's Consent Agenda calls for paying over \$160,000 in public funds and asked if that was a routine matter that needs no attention. Mr. Lotsof then suggested the Council return to the way bills were paid 10 years ago, with the approval of the bills being removed from the Consent Agenda and addressed as its own item with Council approving bills first and paying them later. Mr. Lotsof then stated it will add an extra minute to each meeting, but it will be the best minute Council spends in that meeting.

CITY MANAGER REPORT:

Interim City Manager Brad Hamilton addressed Council, giving the dates of upcoming meetings and events.

- Monday, January 6, 2014 – Economic Development SubCommittee, 5:15 p.m., City Hall
- Monday, January 13, 2014 – City Council Worksession, 6:00 p.m., City Hall
City Council Meeting, 7:00 p.m., City Hall
- Tuesday, January 14, 2014 – Library Advisory Board, 4:00 p.m., Library
- Saturday, January 18, 2014 – Historic Preservation Commission, 9:00 a.m., City Hall
- Monday, January 27, 2014 – City Council Worksession, 6:00 p.m., City Hall
Public Hearing CDBG, 7:00 p.m., City Hall
City Council Meeting, 7:00 p.m., City Hall
- Tuesday, January 28, 2014 – Community Watershed Alliance, 6:30 p.m., City Hall

Tuesday and Wednesday,
December 24 and 25, 2013 – Christmas Holidays – City Offices Closed

Tuesday and Wednesday,
December 31, 2013
and January 1, 2014 – New Year's Holidays – City Offices Closed

Monday, January 20, 2014 – Martin Luther King Day – City Offices Closed

Mr. Hamilton stated information for continuing projects and closures on any ADOT right-of-ways could be found at www.adot.gov. Mayor King then stated New Business Item 6 and the executive session preceding it would be removed, adding the Council did not have a proposed contract to consider for action at this time.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the November 25, 2013 Worksession
- 1b. Minutes of the November 25, 2013 Regular Meeting
- 1c. Invoices processed for the period from November 30, 2013 through December 12, 2013

Councilmember Brooks moved to approve the Consent Agenda. Seconded by Councilmember Moncada. Motion passed 5-1 with Vice Mayor Sacco voting nay.

2. Discussion and possible action on hiring a Communications consultant to examine the City's Information Technology (IT) systems and assist the City's Attorney regarding the investigation about RikerTek it was ordered, at the last meeting, to conduct

Councilmember Brooks stated it was vital to bring another service in to examine what has been done, adding he is not confident the process in the past was done properly and he would like it to be examined. Councilmember Brooks then stated if Mr. Riker was not to blame, the findings would clear him, but if Mr. Riker did the investigation himself, he wouldn't be able to clear his own name. Councilmember Brooks then stated he personally would feel more comfortable bringing someone else in for IT services right now, adding Mr. Moffett brought some names to Council and Councilmember Brooks actually talked to a few of the individuals on the list. Councilmember Brooks then stated if Council makes the decision to do that and decided to terminate services with RikerTek when the item is addressed, he would like to be able to retain Mr. Sage Scholer as a consultant to the person they hire. Mayor King stated that was not on the agenda.

Councilmember Moncada asked City Attorney Paul Loucks if he would want a consultant to assist with the investigation with Mr. Loucks stating he did talk to an IT consultant about the possibility of what will be involved, adding at this point he still didn't know the state of the City's system, so it could be helpful. Councilmember Brooks then stated he would like to get someone that has experience to do this; a big outfit that does this for a lot of big companies since the system includes radio equipment and telephone equipment. Councilmember Brooks stated some of the companies out there that have been working in the corporate world know what systems are high-tech and leading edge, adding the City may not be able to afford that, but he thinks they could make a good recommendation on where to go in the future. Councilmember Brooks then stated he didn't mean to sound bad against any individuals locally, but he thinks when someone works in big companies, they tend to be on the leading edge with most systems that are available and he would like to know what they are so the City doesn't end up with an antiquated system like the one in place now. Councilmember Brooks then stated he would like to put an RFP out for a consultant to come in and give the best recommendations going forward, adding this would include video options for the City Council meetings.

Councilmember Moncada stated he thought it was a good idea to hire a consultant, but he thought this agenda item was for the Council to consider hiring a consultant to help with this investigation and look into what

happened and if it was intentional or not, not necessarily to make recommendations. Councilmember Moncada then stated if the Council was going to hire a consultant, he thinks the City Attorneys should give Council suggestions as to who they would like to assist with their investigation.

Councilmember Brooks stated he put this item on the agenda and as he stated before, he didn't mean anything against the last two individuals who did IT work, but the City needs someone that is really familiar with everything that's out there, adding he didn't want to spend bad money after bad money and end up with a system that's inferior. Councilmember Brooks then stated he was not happy with Google, adding he keeps finding it popping up on his personal computer that it's managed by the City of Benson, and stated he has no privacy at home anymore. Councilmember Brooks then stated he didn't want to go down the road of who messed up what, but he believed Council needed someone professional to do a proper investigation.

Councilmember Moncada stated he would like to get suggestions from the attorneys, adding he was sure they would have some recommendations they can come back to Council with. Councilmember Moncada then stated he read the agenda item to say Council was going to look at giving approval for the attorneys to find a consultant to help with their investigation. Mayor King agreed. City Attorney Paul Loucks stated that was not correct, adding the item was originally put on the agenda to hire a communications consultant to examine the City's IT systems and since he had talked to Interim City Manager Brad Hamilton about the possibility of bringing on an IT consultant for the investigation, it was added to the agenda item.

Councilmember Boyle asked if the Council needed to separate the items or could combine them, adding if Council was going to hire someone to help with the investigation and it was a qualified group of people, the City could get recommendations on upgrades and whatever else might be needed at the same time, thereby expediting the matter and possibly saving some money. Councilmember Brooks stated he felt if the investigation is going to be done, it needed to be done right away and asked Mr. Loucks if this was something his firm might be able to come up with right away with Mr. Loucks indicating they could.

Councilmember Brooks then moved to direct the City Attorneys to hire a consultant firm to come in, examine the radios, telephone and IT equipment and also to investigate what happened with the computer crash, where the emails went and to see if they could be recovered.

Vice Mayor Sacco stated he thought that was the responsibility of the IT guy and asked Councilmember Brooks if he was implying that the City didn't have the proper IT person on board with Councilmember Brooks stating Vice Mayor Sacco was correct.

The motion was then seconded by Councilmember Boyle. Mr. Loucks then asked for clarification from Councilmember Brooks, stating the motion included determining whether recovery could be made of the information and asked Councilmember Brooks if he was also suggesting the City should go ahead and make that recovery with Councilmember Brooks stating the recovery should be done. Mayor King then called for a vote. Motion passed 6-0.

3. **Discussion and possible action in regards to replacement of members or the termination of the Benson Economic Development Subcommittee**

Councilmember Brooks stated he wanted to be on the Economic Development Subcommittee (EDSC) almost since he has been on the Council. Councilmember Brooks then stated he really didn't want to get into personal things that have happened in the past, but he would really like to chair the EDSC, adding he didn't know if the others on the EDSC could deal with that or not, but if they could, he would rather go that route, instead of terminating the subcommittee and restarting it with new members. Councilmember Brooks stated Mr. Kovach mentioned bringing in fresh thoughts and people and Mr. Insalaco made the same statement at the Call to the Public. Councilmember Brooks then stated he has been working on projects on the side and he would be happy to show those to anyone that is interested, but it has been difficult and it would have been much easier to do it on the subcommittee because he has the clout to be able to do these things with the State officials and the Governor's office. Councilmember Brooks then stated he would like to rearrange the members so he could

chair the EDSC, adding he only has a year left in his tenure if he doesn't run again and he would like to give it a shot and make it a successful committee for the City. Councilmember Brooks then stated he would hope the members on the EDSC could get along with him but he sensed that maybe some of them wouldn't and he would like to get their input on that.

Councilmember Moncada stated he had been the chair of the EDSC for less than 6 months, adding the EDSC was making progress. Councilmember Moncada stated, as he expressed to Councilmember Brooks at the last meeting, Councilmember Brooks was welcome to bring any ideas he had to the EDSC, adding there is also a Call to the Public at the meetings. Mayor King asked how many EDSC meetings any Councilmembers attended and how many Councilmembers spoke at the subcommittee's Call to the Public with no Councilmembers stating they had done either. Mayor King then questioned why the Council was discussing terminating the EDSC when they didn't know why it was being considered.

Councilmember Boyle stated the idea behind this item was just to get a fresh start, at least, that is all it was from his end. Councilmember Moncada stated that is basically what has been done, adding there is a new chair and a lot of new members that have been added in the last 6 months, so while the subcommittee may be older, the membership is relatively new.

Councilmember Brooks then stated he would need to go a little deeper, adding unfortunately, there isn't anyone who knows the City and has been to the meetings that wouldn't know that Lori McGoffin has been trying to get him recalled and thrown off the Council. Councilmember Brooks stated Ms. McGoffin has been the leader of the EDSC for about 5 years and he went to one EDSC meeting to give input and was told by Ms. McGoffin that he had no place to speak and needed to be quiet. Councilmember Brooks stated he got it then and understood that he couldn't be on the EDSC. Councilmember Brooks stated Ms. McGoffin was the chair of the EDSC for a very long time and she had certain individuals that she liked to see move up. Councilmember Brooks then directed his comments to Councilmember Moncada, stating he was going to be specific, adding he had a past record before he came to the Council, which was volunteering for this City for about 6 or 7 years. Councilmember Brooks stated he showed interest in this City before he was a Councilmember and asked if any other Councilmember could show that. Councilmember Brooks then stated he wasn't going to get specific, but anyone could look at the record of a person and see where their heart is and where their interest is. Councilmember Brooks then stated a lot of people are on here for social reasons and he is getting into this because he wants the public to understand these seats make a difference in what this City does and how it goes forward. Councilmember Brooks then stated he considers himself a visionary; when he sees something that makes sense, he takes it with both hands and moves it forward, while others say something is a great idea and never do anything about it, adding people don't want that; they want to see the City move forward. Councilmember Brooks then stated it is frustrating to sit on the sidelines and watch this go on, adding there may be some movement with the new members, but he doesn't see Councilmember Moncada's interest before he was appointed to the EDSC and asked Councilmember Moncada if he had anything to show the citizens that he was interested instead of just taking a seat.

Councilmember Moncada stated he was asked to be on the EDSC when he was elected to Council and he has been active in the subcommittee since then. Councilmember Moncada then stated Councilmember Brooks was bringing up things that happened in the past, adding Ms. McGoffin was not the chair of the subcommittee anymore with Councilmember Brooks interrupting Councilmember Moncada to state the subcommittee hasn't moved forward. Councilmember Moncada then continued, stating since he has been the chair, the EDSC has gotten some traction and ground movement, but Councilmember Brooks was now saying the Council should change the EDSC because of who the chair was a year ago. Councilmember Moncada then stated there is a difference now, adding Councilmember Brooks wasn't allowed to address the subcommittee before, but now there is a Call to the Public at the meetings and Councilmember Brooks or anyone else was more than welcome to bring ideas to the subcommittee and if it's a good idea, the subcommittee will take it up, but Councilmember Brooks is just bringing up the past that Councilmember Moncada could do nothing about.

Councilmember Brooks stated the players on the EDSC are what concerns him, adding they are not visionaries and he didn't see the work that's being done by them personally out in the public. Councilmember Brooks

stated he thinks a person on the EDSC needs to be active, adding he means that they need to be hands on in their personal lives moving the City forward and if they aren't, then they don't belong on it and Council needs to find someone else. Councilmember Brooks stated that is what he thinks needs to happen and that's what is needed on the EDSC instead of just talk. Councilmember Brooks then stated there has been a lot of talk for 6 years and people are tired of it, adding he talks to merchant's all the time in town about the City not moving. Councilmember Brooks then stated he has had a passion to be on the EDSC for a long time, but he isn't interested in bringing ideas to people who don't have vision because he doesn't have the energy to do that, stating it's hard enough to do a project without bringing it to someone who maybe likes it or doesn't like it, such as the community lake. Councilmember Brooks stated he found most people in town liked that idea, but it got stopped right away and he doesn't have the energy to fight for those projects, adding they are hard enough to put together without having someone say it's not their idea, so they weren't going to do it. Councilmember Brooks then stated he thinks the people who should be on the EDSC should be active members and the subcommittee should have been moving a long time ago, adding Mr. Kovach told him about bringing up the idea of the strategic plan a year ago and asked why it wasn't done or put on the agenda.

Councilmember Moncada stated he had only been the chairman a few months and the first time he heard that from Mr. Kovach, he scheduled a meeting for it, adding again, he can only deal with what is happening since he has been the chair. Councilmember Moncada stated he didn't think the subcommittee should be changed, but it was up to the Council.

Vice Mayor Sacco stated his question was what business the EDSC had brought to the City and then stated the answer was none. Vice Mayor Sacco then stated he didn't think a committee that has not taken any action to promote the City should stay in existence and maybe the Council should look outside to a marketing firm that has some professional experience to get this show on the road, adding right now the City is stagnant. Vice Mayor Sacco then stated if anyone had any ideas to improve the subcommittee and bring businesses into Benson, he would support it, but he didn't think those ideas were there, adding he was on the EDSC for a while. Councilmember Moncada stated Vice Mayor Sacco is still a member of the EDSC with Vice Mayor Sacco stating he didn't officially resign, but all the EDSC ever did was talk and they never produced anything in writing or came up with a plan to move forward. Vice Mayor Sacco then stated someone needed to take the bull by the horns and decide on the agenda and what was going to be done by a certain period of time, otherwise the Council should just disband the subcommittee. Councilmember Moncada stated the EDSC had a strategic plan meeting that Vice Mayor Sacco showed up 3 hours late for, adding the EDSC worked on the very plan Vice Mayor Sacco is saying they need. Vice Mayor Sacco asked where the plan was with Councilmember Moncada stating the plan was going to be presented to the Council tonight, but they decided to postpone it until Council decided what was going to happen to the EDSC. Vice Mayor Sacco then stated if it was a good plan, it should be brought forward to the Council with Councilmember Moncada stating if the EDSC stayed in existence, the plan would be brought forward.

Councilmember Brooks stated he has been on Council for 3 years and has wanted to be on the EDSC for 3 years, adding he would like the opportunity to chair it for 1 year going forward and everyone would see the difference. Councilmember Brooks then stated he was not just making that as a statement, it was a promise. Councilmember Brooks stated he has the experience and the knowledge and would like a shot at having the position to do that, adding if he has to create a new committee, he will, but this town does need to move forward, adding he has a passion to see it grow and not through people who don't have vision. Councilmember Brooks then stated he had nothing against Councilmember Moncada, but he thinks Councilmember Moncada has shortcomings and has a lot to learn, adding he is intelligent, but there is a lot to learn about this; being involved with putting projects together and getting people excited about them and getting out there and spending time with them. Councilmember Brooks then stated that is the difference and that is why he is saying that he is not happy with the way this town is going forward and he is sick of it and would like to do something about it.

Councilmember Moncada stated if Councilmember Brooks had any ideas, he could even bypass the EDSC if he wanted and bring them directly to the Council, since ultimately, everything was approved by the Council. Councilmember Brooks stated to have the clout to be able to go to the Governor's office and to the State and

get these things done, you've got to have that through some sort of an organization. Councilmember Moncada stated Councilmember Brooks' position as a Councilmember is more important than a position on the EDSC with Councilmember Brooks disagreeing. Councilmember Brooks stated on the EDSC, he would be representing the development of the City. Councilmember Moncada then stated being a Councilmember would get Councilmember Brooks into more doors than being a member of the EDSC.

Vice Mayor Sacco then stated this was no reflection on Councilmember Moncada, but he felt the problem with the EDSC was that there were too many Council people on it and not enough businessmen that know what they're doing on it, which is what is needed. Vice Mayor Sacco stated he has been attending the EDSC meetings and all they do is talk. Councilmember Moncada stated in the last few months the EDSC has had movement, adding they brought the municipal hangars recommendation to Council and they have been working on a museum as well as the strategic plan. Councilmember Moncada then stated it sounded like a new EDSC would just be a committee to push Councilmember Brooks' ideas, adding those ideas weren't even Councilmember Brooks' ideas, but he took them from other people and said they were his. Councilmember Brooks interrupted Councilmember Moncada, stating he had been talking to Mr. Scott about municipal hangar RFPs and Mr. Scott said he has had a hard time getting the issue to Council. Councilmember Brooks then stated he would not have allowed that and he would have had the EDSC speaking to Council about the issue. Councilmember Moncada continued, stating that issue was brought to the Council during his first few meetings as the chair, adding the EDSC is getting some traction, but if the subcommittee is started all over again, it will take time all over again to gain traction.

Councilmember Boyle asked if the EDSC had a plan ready to come to Council with Councilmember Moncada stating the EDSC was going to bring ideas for the strategic plan to Council at this meeting, but then this agenda item came up and he wanted to see what is going to happen to the subcommittee because if a new subcommittee is put in place, they will want to do their own strategic plan.

Vice Mayor Sacco restated that the problem was there were no experienced businessmen on the EDSC. Councilmember Moncada stated business owners and managers have been invited to address the EDSC, but they have been unavailable, adding he knows it's a lot of work to run your own business and they may not be able to attend the meetings. Vice Mayor Sacco stated the Council may need to hire a professional to do the job. Councilmember Moncada then stated part of the strategic plan the subcommittee decided on was to use a professional service to look at a marketing plan for the City.

Councilmember Brooks then stated Mr. Kovach tried to get the EDSC to look at this a year ago and stated Councilmember Moncada shouldn't claim the idea of moving the plan forward, adding if it were up to him, he would have taken Vice Mayor Sacco or some other member of the Council with him to go to businesses in town and talk to them, instead of sitting and waiting for them to come to the meetings. Councilmember Brooks then stated that is the difference in how you work economic development, adding he could teach Councilmember Moncada more and more, but this is not a place for learning, it is a place for doing.

Councilmember Boyle suggested having the EDSC bring their plan to the Council at the first meeting in January, adding the Council could discuss the plan, ideas and the subcommittee and be able to make a better decision then. Mayor King agreed and asked if Councilmember Boyle would like to make that his motion. Councilmember Boyle stated he did. Seconded by Mayor King.

Councilmember Cook stated Councilmember Brooks said he attended one meeting and was told there was no place for him to speak to the EDSC. Councilmember Cook then stated he attended 5 or 6 meetings and there was a particular time he wanted to address the EDSC and was also told by the previous chair that he couldn't. Councilmember Cook then stated in becoming more familiar with the meetings and the rules and laws that govern meetings, he now knows unless there is a specific place for the public to speak, such as a public hearing or the Call to the Public, the public cannot address the body, adding the public is free to attend those meetings and listen, observe and take notes, but again, unless there is a specific item on the agenda allowing the public to address the body, they cannot do so. Councilmember Brooks asked Councilmember Cook to show him the rules that say that with Councilmember Cook stating an example is the Council meeting, adding

the public is free to sit, watch and take notes, but they are not free to address the Council on this agenda item, because it is not provided for. Councilmember Cook then verified this with the City Attorney. Councilmember Brooks asked Councilmember Cook if he was talking about the Council meeting with Councilmember Cook stating he was talking about both the Council and the EDSC meetings and he was using the Council meeting as an example, adding no one could address the public body by just walking in the door and saying they wanted to, and unless there was a Call to the Public or a public hearing, they would have to wait until after the meeting was over and could then talk to whomever they wanted, which is what Councilmember Cook did at the EDSC meeting. Councilmember Brooks stated it was entirely up to the chair to take public input during the meeting, adding if he was the chair, he would allow them to speak and if it was a good idea, he would accept it. Councilmember Cook asked if the public would be permitted to address the public body at any time with Councilmember Brooks stating the public could not address the Council during the Council meeting, but they could be allowed to speak anytime during the subcommittee meeting. Councilmember Cook stated the same rules and laws apply to both meetings with Councilmember Brooks disagreeing. Councilmember Brooks then questioned the City Attorney with Mr. Loucks stating Councilmember Cook was correct and both the Council and the EDSC are subject to the same Open Meeting Laws. Councilmember Cook then stated Councilmember Brooks shouldn't make up new rules and then try to tell him what they are and what the law means. Councilmember Cook stated he attended many more of these subcommittee meetings than Councilmember Brooks had and Councilmember Cook was able to address them in accordance with the law.

Councilmember Cook then stated he was told that the subcommittee has not been able to attract any business to Benson, adding he would like to compare the City's Economic Development Subcommittee to the one in Pima County, called TREO (Tucson Regional Economic Opportunities), which includes Sahuarita, Tucson, South Tucson, Pima County, Marana and Oro Valley. Councilmember Cook stated over 10 years' time, TREO was able to attract exactly 1 business to the area, adding that was through the efforts of all of those towns and cities, with a big budget and a lot of high-powered people who found exactly how hard creating economic development is, adding they are still learning that lesson every time they meet. Councilmember Cook then stated since he was put on the EDSC in June, 2013, the subcommittee has brought the municipal hangars issue to Council, adding they had the Public Works Director in charge of the airport look into the pricing and financing for hangars and were able to make a recommendation to the Council for a study to be conducted to see if the City could build the hangars. Councilmember Cook then stated the Council voted unanimously to have the study done.

Councilmember Cook then stated the EDSC has also been working on the strategic plan and has approved bringing a plan to Council, adding the direct offshoot of that would be a population growth of about 2,500 people in the City within 3 years. Councilmember Cook then stated there are people that don't want that and the Council could hear them snickering and mocking the Council at this meeting. Councilmember Cook stated the plan was worked on when the EDSC met December 6, adding the subcommittee spent much of the day at their meeting to bring that plan to Council, but it was blocked because someone wanted to reorganize the subcommittee, adding that person is Councilmember Brooks. Councilmember Cook then stated if Councilmember Brooks would take the time to attend the EDSC meetings or talk to any of the members, he would know what was happening with the EDSC, adding he was sure both the subcommittee members and Councilmember Brooks could learn a lot, but Councilmember Brooks didn't put forth that effort. Councilmember Cook then stated he had a feeling Councilmember Brooks wanted to remove him from the EDSC, even though he had only been on it for 6 months, adding he disagrees with Councilmember Brooks that the EDSC is stagnant. Councilmember Cook then stated it had been voiced that there were too many Councilmembers on the EDSC and noted that adding another Councilmember to the subcommittee is only going to make whatever problem that creates worse. Councilmember Cook then stated if there is no problem, the perception that there is a problem will still be worse by adding another Councilmember to the EDSC.

Mayor King then asked to have the motion repeated with Councilmember Boyle stating he moved to delay a decision on the EDSC until the first meeting in January and to allow the subcommittee to present the information they had to Council, adding the Council could then decide from there if they wanted to change the subcommittee. Seconded by Mayor King. Motion passed 5-1 with Councilmember Brooks voting nay.

4. **Resolution 34-2013 of the Mayor and Council of the City of Benson, Arizona, authorizing the City Manager to apply for Arizona Department of Transportation Section 5311 Funds to operate a Rural Public Transit System**

Interim City Manager Brad Hamilton stated this is the grant that funds the Benson Area Transit system and it must be applied for each year. Mayor King asked about the ridership with Mr. Hamilton stating the ridership continues to grow, but noted the Dial-A-Ride program for the disabled and the elderly seems to be the busier system. Mr. Hamilton then stated the City did change the schedule to save money, adding we are no longer serving the J6 and Mescal areas. Councilmember Moncada moved to approve Resolution 34-2013. Seconded by Mayor King. Councilmember Brooks asked what the City's cost was for this program, stating he heard it was \$100,000 with Mr. Hamilton stating he did not have the amount, but could send it to Councilmember Brooks. Motion then passed 6-0.

5. **Discussion and possible action on a citywide hiring freeze and scope of such**

Councilmember Boyle stated he thought it was prudent to do this unless there was an emergency position that needed to be filled, adding if someone is leaving or retiring, the position should not be filled unless it is an absolute necessity. Councilmember Boyle then stated the Council needs to put a hiring freeze on and look at new hires on a case-by-case basis only, with no automatic hires, so the Council can start putting a cap on City spending.

Councilmember Brooks stated payroll is one of the biggest expenditures, adding the Council will be hiring a new City Manager in the near future, but in the meantime, he thinks it is prudent to do a citywide hiring freeze on non-critical positions, adding this would not apply to Police or Police Communications, Fire and other certain aspects in the City that are critical to the operation of the City. Councilmember Brooks stated he wasn't sure how to implement this and who would make decisions on that, adding again, the Council hopes to have a new City Manager within 2 to 3 months and at that point, the Council could maybe change this around. Councilmember Brooks then stated if the City does have to cut back on personnel, he would hate to hire someone and 3 months later have to fire them. Councilmember Brooks then stated he thinks a lot of part-time positions can be just a little extra duty for the regular employees who take care of those. Councilmember Brooks then stated that was his position until the new City Manager gets in and takes a look at the situation.

Mayor King stated he wanted Finance Director Megan Moreno's opinion and asked her if she felt this was the proper thing to do right now. Ms. Moreno stated she had conversations with Mr. Cox before he retired about implementing a soft hiring freeze, which they thought could be a possibility, but they hadn't really gotten to the conversation of a hard hiring freeze. Ms. Moreno then stated she felt Council was jumping the gun and taking action on running the City when the City Manager would be able to make a better determination of which positions are critical and would need to be filled. Ms. Moreno then stated her recommendation would be to have a soft hiring freeze until the new City Manager is hired and then give that decision to him on where the City goes from there.

Councilmember Brooks asked what Ms. Moreno considered a soft hiring freeze with Ms. Moreno stating a soft hiring freeze is hiring for critical positions only, adding it has been discussed it a few times when she first brought her budget concerns to the Council. Ms. Moreno stated she had met with Department Heads to determine mission critical projects as well as critical positions and that has been the mindset of Staff, adding it was not a formal directive from Council, but was more of an informal directive to be making those determinations before posting positions.

Vice Mayor Sacco stated he would like to exclude the Police Department from the hiring freeze, adding they are short-handed and the City can't afford to lose any more police. Vice Mayor Sacco then stated they have to find a way to keep the present police force intact and as far as how it's done, he would let the creative accounting people figure it out with Ms. Moreno stating she was not a "creative accountant."

Councilmember Cook questioned who a hiring freeze would affect and what critical and non-critical would mean and questioned the possibility of someone having an agenda to terminate the Fire Chief, adding he thinks someone does. Councilmember Cook then stated he also had concerns about positions in the Water and Wastewater Departments being filled, especially with the winter weather that causes pipes to freeze and water needing to be turned off in those situations, adding those employees not only have to do their regular jobs, but must be on-call after hours. Councilmember Cook asked Ms. Moreno what positions she thought would be considered critical and stated he would also like to know from the Councilmembers who placed this item on the agenda, what positions they thought should not be filled or replaced. Ms. Moreno stated she was not prepared to answer that question, adding this was not something she was consulted on, so she didn't know what information Council may have been looking for. Ms. Moreno then stated if Council would like to let her know what they would like her to look into, they could give a directive to the City Manager and he could ask her to look into that, adding she would be happy to, but she was not comfortable giving Council an answer on the spot.

Councilmember Brooks stated the City Manager would know best who the City can and cannot get by with and it is his job to know and understand how the City functions, so it would be primarily the City Manager's position to make that decision. Councilmember Brooks then stated Council could stipulate that it come before Council before a position is filled, adding Council meets every two weeks so they could get the City Manager's recommendation and probably in most cases, he would go along with the recommendation. Councilmember Brooks then stated it could be done that way until a new City Manager is hired, adding he thinks right now, it makes sense to let the folks in this town know there is a deficit and the City could be in trouble and the Council needs to act prudently. Councilmember Brooks then stated he thinks the City can get by, adding people might have to double up and then when the new City Manager is hired, he can look at the whole situation and get an assessment. Councilmember Brooks stated at that point, the Council may unfreeze hiring or they may have to do a reduction, but it would be up to the City Manager to make a recommendation to the Council. Councilmember Brooks then stated for now, he would like to call this a citywide hiring freeze on all non-critical positions and stipulate that the City Manager bring hiring decisions to Council.

Councilmember Boyle stated he didn't think they wanted to fire anyone, he was just thinking it would be a prudent idea since the City is in difficult times financially. Councilmember Boyle then stated if someone quits or retires, unless filling the position was an absolute necessity, such as in the Police Department, it should remain vacant, at least until the new City Manager is here and then he can decide what's needed.

Councilmember Cook stated he was on both sides of the issue and had questions for both Interim City Manager Brad Hamilton and City Attorney Paul Loucks. Councilmember Cook then stated with the City's budget problems, something needs to be done and this is one way to do it, but on the other hand, the City Council's job is to set policy, not to do hiring or to make hiring decisions and asked if Council was going too far by having hiring decisions come back to Council for action. Mr. Loucks stated Councilmember Cook was correct in that the authority to hire is delegated to Administration and as far as Councilmember Brooks' suggestion about imposing a soft hiring freeze; there was nothing inconsistent with giving direction to the City Manager, essentially reminding him finances are tough and to only look at replacing mission critical positions. Councilmember Cook then asked if the Council required the City Manager to bring his decision back to Council for approval, if the Council was going too far down that road with Mr. Loucks stating from the implementation perspective, it might impose some burdens on the City Manager, but from the legal perspective, there's nothing inconsistent.

Councilmember Moncada stated he was ok with the idea of a hiring freeze but stated Council has to be able to act reasonably fast, adding for instance, the golf course has seasonal workers and people quit or they find a permanent full-time job and quit, and they would need to be able to replace them in a reasonable time. Councilmember Moncada stated sometimes the timing of a vacant position can't wait two weeks, so it may require a special meeting. Mayor King asked if the Council could put a soft hiring freeze in place and if the Interim City Manager wanted to bring a position to Council for approval, he could.

Councilmember Boyle stated the Council could perhaps consider City enterprises like the golf course, the restaurant, the Gas Department and those type of positions needed to keep the businesses running properly to be filled as needed, adding those need to be ran as a business with the ability to hire and fire quickly, but other large salaried positions, streets and things of that nature should be considered in the freeze.

Vice Mayor Sacco asked why the City doesn't lease the golf course along with the restaurant with Mayor King stating that subject is not on the agenda.

Councilmember Brooks stated he was not sure if he had the confidence in Mr. Hamilton and it would be much easier if Mr. Hamilton just considered all positions non-critical, adding that is why he wanted this to come before the Council. Councilmember Brooks stated if there is a vacant position at the golf course, it would seem to him that they could get by without filling that position for a couple of weeks until the Council meeting, but if not, the City could hire someone temporarily. Councilmember Brooks then stated he would like to see the City be conservative on what is done from here on out, adding he has people ask him why the City is always hiring new people for all these positions when there is a deficit. Councilmember Brooks then stated he felt responsible to bring this to the Council and he thinks the Council needs to be conservative and look at consolidating positions, at least until a new City Manager is hired and can make an assessment of the situation. Councilmember Brooks then stated he would definitely listen to his recommendations, but for right now he thinks it's prudent to do this. Councilmember Brooks then moved to go ahead and put in a soft hiring freeze citywide for all non-critical positions and that after Mr. Hamilton made the decision on whether a position is critical or not, he would bring it to Council before filling any position. Mayor King asked Councilmember Brooks if we wanted to exclude the Police Department with Councilmember Brooks stating he considers almost all the Police Department critical, so they would be critical, but the Parks & Recreation assistant and things like that would not be critical, adding he thinks the City can get by for a while until they find a way to solve this problem.

Mr. Hamilton stated a lot of positions at the golf course are seasonal part-time positions, but Council should also consider lifeguard positions, adding the City normally starts recruiting pool lifeguards for the summer in January. Council concurred the City had to hire lifeguards in order to open the City pool. Mr. Hamilton stated most of the positions the City is advertising for are temporary, part-time positions and Staff will consider the necessity of each position or if the City can leave the position vacant.

The motion was then seconded by Councilmember Boyle.

Vice Mayor Sacco stated a novel idea the Council should try was to have Staff do double duty for a while until the City got back on its feet, adding no one ever wants to touch the expense side of the ledger; they always want to do things to override and cover it up. Vice Mayor Sacco stated he thinks it's about time Council takes a hard look at the expense side of the ledger, adding they have been putting it off long enough and the City can't afford these high salaries and all these people on Staff. Councilmember Brooks stated that was not on the agenda and he would like to bring that to the Council as an item as soon as the Council gets the new City Manager on board. Councilmember Brooks then stated the new City Manager would definitely have to look at citywide personnel and have an organization come in and do that, adding he thinks Vice Mayor Sacco is right and the City may be a little bit top heavy, noting he's not an expert, but he senses that. Vice Mayor Sacco then stated it's time for the City to tighten its belt because we can't continuously spend money foolishly and the Council needs to take a hard look at the expense side of the ledger including Staff and equipment or any other thing that contributes to the expense side of the ledger.

Councilmember Cook stated if the Council was trying to save money, they may need to rethink hiring the City Manager and then stated he didn't see why the Council was discussing implementing a soft hiring freeze, since it's already in place.

Mayor King then called for a vote. Motion passed 5-1 with Councilmember Cook voting nay.

EXECUTIVE SESSION: As per A.R.S. §38-431.03 (A)(1), (3) & (4), Discussion or consideration of employment, assignment, appointment, promotion, salaries, or resignation of a public officer, appointee or employee of the City. The Council will discuss and consider the status of negotiations regarding the possible appointment and employment contract of the City Manager, and may receive legal advice and give instructions per A.R.S. section 38-431.03(D).

Mayor King removed the executive session at the beginning of the meeting.

6. **Discussion and possible action in approving an employment contract with William Stephens for the position of City Manager**

Mayor King removed this item at the beginning of the meeting.

EXECUTIVE SESSION: As per A.R.S. section 38-431.03(3)&(4), discussion and/or consideration with City Attorney of proposed Commercial Lease Agreement between the Benson Area Food Bank and the City of Benson for a portion of space upon real property located at 370 S. Huachuca Street, Benson, Arizona.

Councilmember Moncada moved to enter into an executive session with the Mayor and Council, the Interim City Manager, the City Attorney and the City Clerk at 8:35 p.m. Seconded by Councilmember Boyle. Motion passed 7-0.

Council reconvened at 8:50 p.m.

7. **Commercial Lease Agreement between the Benson Area Food Bank and the City of Benson for a portion of space upon real property located at 370 S. Huachuca Street, Benson, Arizona**

Interim City Manager Brad Hamilton stated this is the lease agreement with the Food Bank for part of the building they currently occupy next to the municipal library. Councilmember Brooks moved to approve the commercial lease agreement between the Benson Area Food Bank and the City of Benson with the amendment to change the expiration date to December 31, 2014. Seconded by Councilmember Moncada. Motion passed 6-0.

8. **Discussion and possible action to terminate the City's Information Technology (IT) services provided by RikerTek**

Vice Mayor Sacco stated he put in a document request for 9 items concerning IT equipment, policies, procedures and the procurement of the IT services and none of the documents he requested existed. Vice Mayor Sacco then stated Council had a decision to make; to continue to operate the way things are or go out and get a new IT firm to cover the City's needs. Vice Mayor Sacco then stated, first of all, the Council has to decide what the City's needs are, adding they have never been defined and he didn't know if the Council could go out for proposals if they didn't know what the City's needs are, so he was suggesting that Council eliminate the IT department until the new City Manager comes on board and he can look at it and make a recommendation to the City Council.

Councilmember Boyle stated the Council probably needs to go ahead and suspend services with RikerTek right now and after the pending investigation is completed, if RikerTek hasn't done anything wrong and the Council has put out an RFP, RikerTek should be allowed to resubmit as long as he is competitive and willing to work within the parameters Council sets. Councilmember Boyle then stated he has no desire to destroy this man's life, but Council does need to protect the City, adding again, that once the investigation is complete and if RikerTek is cleared, he should be able to submit a proposal for IT services and be part of the competitive bid process, but right now, he thinks the Council needs to terminate the services provided by RikerTek.

Vice Mayor Sacco stated he had all the invoices from RikerTek and they amount to thousands of dollars, so Council needs to correct this situation immediately, adding the Council can't let this go on and can't spend taxpayers' money foolishly.

Councilmember Moncada stated just as Vice Mayor Sacco often says, he thinks the Council is putting the cart before the horse. Councilmember Moncada then stated if Council terminates the services with RikerTek before the investigation is completed, they are basically presuming Mr. Riker to be guilty. Councilmember Moncada then stated the Council should put out an RFP and should have done so in the past, adding hindsight is always 20/20. Councilmember Moncada stated the City has to have IT services, and he understands there are unsolicited proposals from people, but his concern is that Council is presuming someone to be guilty if they terminate them before the investigation is done.

Councilmember Brooks stated he agreed with Vice Mayor Sacco and Councilmember Boyle, adding he thinks the Council should terminate these services immediately, adding it was not his intention to bully RikerTek. Councilmember Brooks stated he thought through the investigation, Mr. Riker will either be found guilty or not guilty and he wouldn't have a problem with Mr. Riker coming back to the Council when they put out an RFP, but he wanted to say that it was unacceptable to have the email services down for 2½ weeks. Councilmember Brooks then stated he didn't think the Council should continue services with RikerTek right now, especially under the circumstances of the investigation, adding he would like to have it done impartially before Council decides to go out for an RFP. Councilmember Brooks then stated it was his thought that Council needed to terminate the services with RikerTek and once they are clear of the investigation, if Mr. Riker wants to be in the running for the services at some point, he can apply then.

Councilmember Cook stated the Council has been through this before, only it wasn't for IT services, adding a member of the community, who lives outside the City, comes storming in, kicking in the door, blaming someone else, and he is proven to be wrong over and over and over. Councilmember Cook then stated there are incredible allegations made and that is all they are; allegations, which haven't been proven and the Council doesn't know that RikerTek has done anything wrong. Councilmember Cook then stated they do know that the City has had in addition to man-hour service, hardware delivered and paid for, adding he didn't see where that was specifically broken out. Councilmember Cook stated he was told when the servers at the Police Department went out, new ones had to be purchased for approximately \$20,000, adding they also had to be set up. Councilmember Cook then stated there was also a new camera system and those servers which took considerable time and effort to get installed and working. Councilmember Cook then stated the phone system went down and phones had to be replaced. Councilmember Cook stated Mr. Moffett was wrong about the phone system, just like he was wrong about the iPads purchase. Councilmember Cook then stated someone outside the community wants RikerTek fired and just has a vendetta, adding this person has gone after the City Manager, the City Attorney, the Finance Director, the Director of Development Services, Parks and Recreation and various City Councilmembers. Councilmember Cook then stated this person has been wrong on most of those and because he's doing this again, Councilmember Cook doesn't have the faith in him finally being right. Councilmember Cook then stated he thinks the Council needs to find out through the investigation what happened, what went wrong and should the Council have put in place procedures to prevent this and if they should have, then they need to refrain from blaming other people for the inaction of the Council.

Mayor King stated he had a question for the Finance Director, asking if the invoices for RikerTek included parts. Finance Director Megan Moreno stated some of the invoices included actual product that was purchased for projects, adding she couldn't list specific invoices off the top of her head. Mayor King asked Ms. Moreno to look at the invoices he was holding. Ms. Moreno then stated one of the invoices, Invoice 1350 from RikerTek dated January 8, 2013, specifies it is for an HP Office Jet Pro 8100 for \$149.99 with a "t" next to it, adding that shows the invoice being taxable in the Finance Department, which would be for a product, not service. Ms. Moreno then stated at the end of the year, the Finance Department goes through invoices and splits out what is considered to be 1099able and what is actual product. Mayor King asked if these invoices had been split out with Ms. Moreno stating after the issue came up at the last Council meeting, she instructed the Accounts Payable Supervisor to go through and split out all invoices for the year on what was product and what was services, adding this was routinely done at the end of the year as part of the procedures to prepare tax forms for contractors. Ms. Moreno then stated she didn't have the exact figure with her, but the total amount paid for services provided for the year was more around \$118,000.

Councilmember Brooks stated he was concerned about the records request he made and the investigation will hopefully find something. City Clerk Vicki Vivian addressed Council stating the City is in the possession of Mr. Cox's emails, which were retrieved, adding the Clerk's office is currently sorting the emails and sending anything related to the investigation to the City Attorney. Ms. Vivian then stated when this is completed, the Clerk's office will then work on Councilmember Brooks' request, adding any correspondence between Mr. Cox and an attorney must be extracted and will be sent to the City Attorney to determine if an attorney/client privilege exists. Ms. Vivian stated this is a very lengthy project and they will fulfill the request as soon as possible. Councilmember Brooks asked about the internet mail Mr. Cox received and sent out with Ms. Vivian stating all Mr. Cox's emails were retrieved. Councilmember Brooks then stated he knew the intercommunications between the offices located at City Hall were retrieved and some were retrieved from the Fire Department, but the City didn't have anything from the Police Department, or the golf course or any other offices, and asked Ms. Vivian if she was saying Mr. Cox's communications with the service in Phoenix existed and others didn't. Ms. Vivian then stated anything sent from City Hall offices exist in Staff's email as a "sent" item, adding if Mr. Cox sent a message to the Recreation office, it would be in Mr. Cox's sent folder and the City has those records, but the Recreation Department wouldn't have it.

Councilmember Brooks then stated what he was concerned about is documents that have been sent back and forth to the Police Department are, at this time, gone and he doesn't know if the City realizes the liability it has because of that and all the ongoing court cases. Councilmember Brooks then stated this is not a light thing and the service the City hired should have known about records retention and if they didn't, they were negligent. Councilmember Brooks then stated if it were his company, he would have asked for a waiver if indeed, the City didn't want to spend the money to have storage somewhere else, adding he understands bad or faulty equipment, so again, if it were his company, he would have gotten a waiver stating the City is not willing to buy the equipment that is needed to retain these records. Councilmember Brooks stated he thinks there was a lot of mistakes on RikerTek's part, adding he doesn't want to get into that, but what he is saying is he is not comfortable with their service and his personal opinion is the Council needs to terminate their service, have the investigation done, bring in a consultant to make recommendations to the Council and put out an RFP for IT services.

Vice Mayor Sacco stated his concern is that the City can buy new equipment rather than trying to maintain these dead horses and can do so a lot cheaper than what is being paid to RikerTek. Vice Mayor Sacco then stated the City can deal directly with the phone company regarding the phones and can deal directly with other vendors rather than going through a third party to begin with.

Councilmember Brooks then moved to terminate the current City IT services and bring in temporary IT services to take over until the Council puts out an RFP. Seconded by Councilmember Boyle.

Councilmember Cook stated he thinks it's easy to come rushing in after the fact and say this is the way things should have been. Councilmember Cook then stated State law says what the City needs to do as far as records retention, so that factors into the situation also, adding if the location where the servers were at burned completely down, the City would have the same liability as it does now. Councilmember Cook then asked what policy or procedure this Council had put in place to make sure this wouldn't happen, adding he means the current Council and the previous Council. Councilmember Cook then stated it's easy to point the finger of blame, but when the responsibility lies with this Council to make sure those records are retained beyond or in a different way than State law requires, then all the Council is doing is pointing fingers and blaming other people.

Vice Mayor Sacco asked Councilmember Cook how much involvement he had looking into RikerTek and if he had looked at the invoices to make sure they are up and above board, adding he is not accusing RikerTek of any foul play, but common sense says the City is trying to maintain old equipment which is outdated rather than replacing it with new equipment at a cheaper price. Vice Mayor Sacco then stated a good IT person would make a recommendation to replace equipment to keep up with state of the art equipment and to lessen the cost of exposure.

City Attorney Paul Loucks stated Councilmember Brooks' motion may have carried over into the next item with Councilmember Brooks stating he was just making a point that the City would be terminating RikerTek's services until the City puts out an RFP. Councilmember Brooks then stated his motion was to terminate the current City IT services, but he wanted to make sure it was understood the City would not be without IT services.

Councilmember Cook disagreed, stating until the Council has an investigation and they know there is any kind of fault, he thinks the Council is rushing to judgment and is just carrying out someone's political agenda and vendetta. Councilmember Cook then stated he thinks the Council needs to leave this alone until they know if there is something wrong or not.

Vice Mayor Sacco stated he took objection to comments Councilmember Cook made, but he would let it go for now. Motion then passed 4-2 with Councilmembers Cook and Moncada voting nay.

9. **Direction to Staff to start the procurement process for the City's Information Technology (IT) services**

Councilmember Boyle stated he thought it was obvious Council needed to do this and moved to put out an RFP. Seconded by Councilmember Moncada. Motion passed 5-1 with Councilmember Cook voting nay.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Moncada moved to adjourn at 9:15 p.m. Seconded by Councilmember Boyle. Motion passed 6-0.

ATTEST:

Toney D. King, Sr., Mayor

Vicki L. Vivian, CMC, City Clerk