

**THE WORKSESSION  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD APRIL 14, 2014, AT 6:00 P.M.  
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**CALL TO ORDER:**

Mayor King called the meeting to order at 6:00 p.m. Mayor King then led the public in the Pledge of Allegiance.

**ROLL CALL:**

Present were: Mayor Toney D. King, Sr., Vice Mayor Al Sacco (arriving at 6:01 p.m.), Councilmembers Pat Boyle, Ron Brooks, Jeff Cook (arriving at 6:12 p.m.) and Peter Wangsness (via phone).

**NEW BUSINESS:**

**1. Discussion and possible direction to Staff about material terms to be included in draft ordinances(s) for a Benson Economic Development Committee that will, perhaps, be subsequently considered for adoption**

Mayor King stated a handout had been given to the Council at the worksession. City Attorney Gary Cohen then addressed the Council stating in conversations with the City Clerk, there is a little bit of disconnect with how the terms of the Benson Economic Development Committee should be developed, adding the typical way is for the Mayor and Council to discuss and agree on material terms and give them to Staff, who then, in conjunction with City Attorney, would develop the language of the ordinance to be brought to Council for review, possible modification and approval. Mr. Cohen then stated it is unusual, but here the Council has a very detailed submission by a member of the public that he hasn't read in detail or analyzed from a legal perspective since he hasn't been directed to do so, adding he would be happy to do so, but he hasn't been instructed to, noting that is where the disconnect is happening. Mr. Cohen then stated he and Staff are looking for some direction, adding options are for the Council to give Staff the material terms of the committee so they can develop an ordinance to be brought back to Council, or if Council wants to go through the submission and instruct Staff to review and make proposed modifications for legal reasons, that can be done also.

Councilmember Moncada stated he assumed Council and Staff were on the same page, but noted the Council never gave Staff any direction. Mr. Cohen then stated he would be happy to review the document, but wanted Council to be aware that he was trying to be sensitive to working without Council direction and didn't want to do things the Council had not instructed him to do, adding again, he wanted to be very careful about working with no Council direction. Councilmember Moncada stated Mr. Insalaco had put a lot of work into his draft and for the most part, he thought the draft was ok, but noted it did need Staff review and legal review to make sure it was within legal parameters. Mayor King agreed.

Mr. Cohen then stated when he was given a copy of the draft, he briefly looked it over and something that caught his attention was that "committee members may be removed from this committee by a majority vote of City Council only after a fair hearing is conducted," adding as a City Attorney, if he is given direction to review the draft, that is something that would draw his attention and something he may have concerns over. Mr. Cohen then stated this is an example of why he is hopeful that at some point, either Staff will be given the material terms for the committee and can draft an ordinance or they will direct Staff to review the draft and make comments so he will have an opportunity to provide Council some advice.

Councilmember Moncada stated that part concerned him also, adding committees consist of volunteers and if the Council wants to remove someone, they should have a reason, but he didn't think a hearing was needed. Councilmember Brooks stated that provision was actually already part of the Board of Adjustment

and is in the draft so someone couldn't be removed without any reason at all, adding that has happened in the past. Councilmember Moncada stated he didn't think the Council needed a reason, adding if a new Council was elected and they wanted different members, they should have that right, noting time and time again, Councilmember Brooks has said that the new Council shouldn't have to be stuck with someone they didn't pick. Councilmember Moncada then stated the same thing happened to the Economic Development Subcommittee, with the Council just voting to disband it for no reason. Councilmember Brooks disagreed, stating the new Council just gives the committee new directions and asked why the Council would want to remove someone with Councilmember Moncada stating the new Council may feel that they had better people for the committee and he didn't think the Council should be forced to give a reason for removing someone from a committee, adding it could end up creating a legal issue. Councilmember Moncada then stated the Council doesn't need a reason because volunteers don't have a legal right to be on a committee.

Mayor King asked who would conduct the hearing with Councilmember Brooks stating the Council would conduct it. Councilmember Brooks then stated if he heard rumors that someone is doing something and he chose to put it on the agenda to dismiss a committee member, he thinks the member has the right to talk to the Council and say why they shouldn't be removed. Mayor King stated he didn't want to conduct a hearing, adding if it's started with this committee, other committees would follow and he didn't think it was the right thing to do. Councilmember Brooks then stated this provision was already in the Board of Adjustment. Mayor King then stated he still didn't think the Council should be put into that situation, adding as Councilmember Moncada said earlier; it could lead to a legal issue in the future. Councilmember Boyle then stated if the Council had a hearing, it could be informal, but at least it would help eliminate vindictive or political removals being done, whereas without any hearing, on a whim someone could be kicked out for no reason, adding this would at least give a person an opportunity to explain themselves. Councilmember Moncada then stated if someone is on the agenda to be removed from a committee, that would already give them the opportunity to contact Councilmembers and talk to them, adding they would have at least 10 days to do so. Councilmember Moncada then restated this may put the Council in a legal situation and he would like to ask the attorney to review it, adding if a public hearing is conducted, with more mudslinging done in public, it will make the City look even worse. Councilmember Brooks stated another way to do it would be for the person to submit something to the Council stating why they shouldn't be removed with Councilmember Moncada stating that could be done right now, adding the person can talk to the Councilmembers without a public hearing, again noting the committee members have no legal right to be on the committee.

Councilmember Brooks then stated this happened to him and he never got a fair hearing with Councilmember Moncada stating Councilmember Brooks was at the end of his term on a committee and there is no provision for an automatic renewal and then asked if the Council should have a public hearing every time a term expires. Councilmember Brooks stated usually a person is asked if they want to renew their term and it is their choice. Councilmember Moncada then stated the renewal still isn't automatic and the renewal of the appointment must still go to the Council for action. Councilmember Brooks then stated what he is saying is that if the Council decides to terminate someone from a committee, that person has a right to a hearing and should have a right to speak to the Council. Councilmember Moncada agreed, but stated Councilmember Brooks was not terminated; he was up for a renewal and then stated Councilmember Brooks could still have spoken to the Council before not being renewed. Councilmember Brooks then stated this was done to him and was a setup, adding he didn't want to see that happen to anyone, again stating that person has a right to address the Council and not just to be removed with no reason.

Councilmember Moncada agreed, but stated instead of a hearing, the committee member can still address the Council, adding a public hearing doesn't benefit the City or the person being removed. Councilmember Moncada then stated there are ways to get the information to Council without holding a public hearing. Councilmember Brooks then stated a public hearing is required for the Board of Adjustment, so he thinks the Council violated their own ordinance, adding he never asked for a hearing and just let it go, but he thinks if someone is singled out for whatever reason, they should have a way to appeal to the Council and say they want to stay on the committee. Councilmember Brooks then stated the Council could revisit this

issue and that he would like to take a look at the Board of Adjustment on that also with Mr. Cohen stating that could be done. Mr. Cohen then asked about the material terms of the committee.

Councilmember Brooks stated he was moving forward with this committee to put it together, adding the City hasn't had a big response and from what he understood, the City ran another advertisement for membership applications and was going to extend the deadline to May 5 with City Clerk Vicki Vivian stating extending the deadline would be up to the Council.

Councilmember Brooks stated he would like to see the committee flexible, adding it could start with 5 members then go to 7 or 9, but right now, it couldn't start with 9 because there may not be a quorum in attendance. Mayor King stated if the committee started with 7, only 4 members would need to be present to have a quorum. Councilmember Moncada stated he thought there should be 1 Councilmember on the committee as a liaison. Councilmember Brooks agreed stating he thinks it is good for all committees to have a Councilmember on them since the Council knows the rules better, adding on this committee he would think it would be good to have 1 or 2 or 3 Councilmembers on it and his wish is to have some businessmen also. Councilmember Boyle stated the Council could start the committee with 5 members and say they wanted 7 or 9 members later. Councilmember Moncada stated the Council needed to select a number and suggested 5 members for now, with 1 Councilmember and 4 members of the public, adding they could have a goal to increase it to 7 or 9 members later.

Councilmember Brooks stated he wanted the attorney to look into having non-voting members, adding he likes the idea of having non-voting members because not everyone wants to be there every month, but they do want to be part of the process and if they are a non-voting member, they wouldn't have to attend every meeting, but could still be a part of the committee. Councilmember Brooks then stated this would allow more open dialogue at the meetings under the Open Meeting Laws. Councilmember Brooks then stated as far as what Mr. Insalaco drafted, Councilmember Brooks made some changes because Mr. Insalaco doesn't know how the City runs their meetings, but he thought Mr. Insalaco did a very good job. Councilmember Brooks then stated part of the problem is that right now the City Code doesn't address Open Meeting Laws, adding 18.1 in the City Code could be used for that and give the basics that would apply to all boards, committees and commissions, but in the meantime it could be part of the 18.7 draft for the Economic Development Committee.

City Clerk Vicki Vivian then addressed the Council stating Staff would prefer that 18.1 be the section that addresses Open Meeting Laws and rules that are applicable to all boards and commissions, and that Section 18.7 only address the specific material terms of the Economic Development Committee. Ms. Vivian then stated Staff can work on both sections of the City Code, but noted the development of the Economic Development Committee didn't need to wait for the adoption of Open Meeting Laws, adding Open Meeting Laws are already a part of State law and must be followed whether or not they are specifically included in the City Code.

Councilmember Brooks agreed, stating it would make more sense to address Open Meeting Laws and other basics in Section 18.1, adding a Councilmember on the committee can make sure the Open Meeting Laws are followed. Councilmember Brooks then stated he would propose that the attorney review the draft and that the committee start with 5 members and then the Council add members in groups of 2 to ensure an odd number of members. Vice Mayor Sacco expressed his concern with membership, stating the more members there are, the less chance there is of something passing, adding he thinks the Council should minimize the membership. Councilmember Brooks stated what he was looking for was open dialogue and by having non-voting members, they can then make suggestions and the voting members can vote on the issues, adding he would hate to turn away anyone who has some good ideas for the committee. Councilmember Brooks then stated the Council could limit the committee to 5 voting members and then have 5 or 6 non-voting members. Mayor King asked if the Council could say the committee should have a minimum of 5 members and a maximum of 7 or 10 with Ms. Vivian stating the Council needed to indicate the number of members the committee would consist of.

Mr. Cohen stated he believed the consensus of the Council was to have 5 appointed members, all of whom vote and 1 of whom is a Councilmember, adding 4 would be from the public. Councilmember Brooks stated that was incorrect and that the Council said if other Councilmembers wanted to be on the committee, it could happen. Mayor King disagreed, stating that is what Councilmember Brooks said. Mr. Cohen then restated that the Council wanted to start with 5 members and Council agreed. Mr. Cohen then asked about lengths of terms with Council all saying the terms would be for 1 and 2 years to start with to create staggered 2-year terms.

Councilmember Moncada then stated he still thought there should only be 1 Councilmember on the committee. Mayor King agreed, stating he also felt there should only be 1 Councilmember on the committee. Councilmember Brooks stated he disagreed with that, adding if Councilmembers are willing to put the time into a committee, he wants to see them there. Councilmember Brooks then stated there may be times that he is not able to make the meeting and the other Councilmember can run the meeting when he isn't there. Councilmember Brooks then stated again, if other Councilmembers want to be on the committee, he doesn't have a problem with that. Councilmember Moncada expressed his opinion that there should only be 1 Councilmember on the committee, adding the committee is an advisory committee to the Council and again stated he felt the committee membership should be limited to 1 Councilmember, adding it would be up to the Council to decide this. Vice Mayor Sacco agreed with Councilmember Moncada stating if there are too many Councilmembers on a committee, the issue wouldn't even need to come to the Council.

Councilmember Brooks stated the membership of the committee should be limited to 2 Councilmembers with Mayor King, Vice Mayor Sacco and Councilmember Moncada stating they felt it should be limited to 1 Councilmember. Councilmember Brooks stated he saw no reason for that. Vice Mayor Sacco then stated he recommended the membership be limited to 5 members with 1 Councilmember. Councilmember Brooks stated the Council was setting themselves up for disaster, especially if there was a Councilmember who wanted to put energy into the committee. Councilmember Brooks then stated he guessed the second Councilmember could be a non-voting member. Councilmember Moncada stated he felt the Council should stick with 5 members with 1 Councilmember right now and could address it again later, if needed. Mayor King agreed. Councilmember Brooks stated the Council knew where he stood on this subject, adding he had already spoken to Councilmember Boyle and he knew that Councilmember Boyle has a big desire to be on the committee. Councilmember Brooks then stated there are some people who really want to move this City forward and he doesn't want to put a block in their way. Councilmember Moncada stated anyone who wants to be involved can still attend the meetings and interact, adding just because he didn't put his name in for the committee doesn't mean he won't still be involved. Councilmember Brooks disagreed, stating dialogue is the best way to get things done and if you stop dialogue, you're going to stop progress. Councilmember Moncada stated the Economic Development Committee isn't the only place economic development is going to be done, adding he is still going to participate in economic development, but he still feels there should only be 1 Councilmember on the committee.

Councilmember Boyle stated he was hesitant to talk about it, because his name was in the ring and he didn't care if he was a voting member or not, but he would like to be on the committee regardless, adding he would be happy to be a non-voting member. Mayor King stated he didn't know how that would work and while he understood where Councilmember Boyle was coming from, he also felt that when there are too many Councilmembers on a board, then the Council is just bringing the information to themselves. Mayor King then stated he may also attend a few meetings and others may also. Councilmember Moncada agreed that he may attend meetings to see if there is something he can do to help as a citizen. Councilmember Brooks stated it would be up to the chair of the committee to report to the Council regardless of how many Councilmembers were on the committee. Councilmember Brooks then stated the Councilmember doesn't have to be the chair, adding a member from the public could be the chair and the way he wants it set up is for the chairperson to bring issues to the Council. Councilmember Brooks then stated he would love to see more Councilmembers involved in economic growth and the more that want to be there, the better off it is as long as they are serious about wanting to create economic development.

Vice Mayor Sacco then stated if you have too many members on a committee, the issue doesn't even need to be brought to Council since the Councilmembers on the committee have already voted and made their choice. Councilmember Brooks stated the committee could have 3 or 4 Councilmembers, adding the reason they will have made their choice is because they are in the middle of the issue and would already understand the issue. Vice Mayor Sacco stated he felt the Council should limit the committee to 5 voting members, with 1 of them being a Councilmember. Councilmember Brooks then stated if there are people or Councilmembers who have interest in economic growth and want to be part of that forward movement, he didn't see why the Council would want to limit the committee, simply because Councilmembers already know how they are going to vote, adding again, the only reason they know why they are going to vote a certain way at the Council level is because they understand the issue really well, because they were involved in it. Mayor King then stated another item was on the agenda and the Council should move on.

Mr. Cohen asked if Council wanted Staff and the City Attorney to review the drafts of both Section 18.1 and Section 18.7 and give their comments to Council for their consideration. Council agreed. Mr. Cohen then asked if he could hear the Council's thoughts on creating staggered terms. Councilmember Brooks stated the Council would appoint members for lengths of terms to create staggered terms with Councilmember Moncada agreeing the Council handled it with the motion to appoint members. Councilmember Wangsness stated the Council could also put names in a hat and draw for term lengths. Council agreed with Mr. Cohen stating the legal term would be to create terms lengths "by lot."

2. **Updates and discussion on various City projects, including but not limited to the Transit Department, potential tourism related tours through Amtrak and Greyhound Bus Services**

Public Works Director Brad Hamilton addressed Council stating Tourism Director Bob Nilson and Engineering Aide Cheri Shull have been attending each other's meetings since Tourism and Transit go together. Mr. Hamilton then stated the FTA has also been pushing interconnectivity of the transit systems and the City has talked to both Amtrak and Greyhound about becoming something like an agent for them, adding this would create stops in Benson. Mr. Hamilton then stated the Greyhound stop would provide the City with 2 benefits; the first benefit is if someone bought a ticket in New York City, rode to Benson and then got on the Benson Area Transit, the City would get in lieu credits for transit costs, which means less money out of the General Fund for the transit operations since credits would cover more of the transit from the FTA; the second benefit would be that the City would also make a percentage off tickets sales. Mr. Hamilton then stated the City is looking at Amtrak and seeing if the same thing could be done with getting credits. Mr. Hamilton then stated one of the concepts with Cochise County Tourism and Transit is to tie our systems together, adding currently Douglas has a stop to get to Bisbee and Bisbee's transit system has a stop to get to Sierra Vista, but that is where it stops, so Staff is looking at the possibilities and working on that. Mr. Hamilton then stated he wanted to let the Council know it is being worked on and hopefully they will be seeing a contract to try this out with Greyhound.

Councilmember Moncada asked how much was spent on transit out of the General Fund with Finance Director Megan Moreno stating the current fiscal year has a \$45,000 transfer from the General Fund to the transit budget. Councilmember Boyle asked if that was an annual figure with Ms. Moreno stating it was. Councilmember Moncada then stated the new service would help offset with in-kind services, so not only could the City potentially make money off Greyhound and maybe Amtrak tickets, but the transit system part could be used to offset the in-kind portion with Mr. Hamilton indicating that was correct. Councilmember Brooks asked if this would affect our grants in any way with Mr. Hamilton stating it would actually increase the amount of grant funding the City would get, so the portion of the City funding, or the match, would be smaller, because it's in-kind for the mileage. Mayor King asked how much the grant funding is now with Ms. Moreno stating she would look it up for the Council.

Councilmember Moncada then stated if this could all be tied together, the City would be less likely to lose the grant each year, because the sponsors would realize the ripple effect it would have. Mr. Hamilton agreed, stating not only would this benefit the City, but it would also benefit all of Cochise County. Mr. Hamilton then stated it would promote tourism in Cochise County, noting one of the disadvantages of

Cochise County is, unless you bring a car, you are stuck and can't really go anywhere, adding you have to go to Sierra Vista to rent a car, yet the train stop is in Benson and the transit systems are not connected. Mr. Hamilton then stated one of the concepts Amtrak was talking about was to market in the L.A. basin for short trips to the west, to come see Cochise County, see the west, ride the train from L.A. to Benson, get off, visit the caverns, Tombstone and Bisbee and then get back on the train and go back to L.A., adding in the surveys Amtrak conducted, they found that trip would be very popular.

Mayor King asked if the City would be providing rides with Mr. Hamilton stating the concept would not be to provide rides, but to keep a route and look at interconnectivity points, like where we could meet up with Sierra Vista and connect, adding both cities may look at expanding service to do so. Mayor King stated that would be a good idea.

Councilmember Brooks then stated there was something similar to this subject on the regular meeting agenda, adding it is to use buses for more than we use them now. Mr. Hamilton stated it would be interesting to have that discussion and see what the Council was thinking about, adding ideas would have to be approved by both the FTA and ADOT.

Ms. Moreno then stated the City budgeted funds from ADOT grants in the amounts of \$97,000 for operating expenses and \$36,000 for administration expenses, adding the City also received grant funds from SEAGO in the amount of about \$24,000, and the budgeted contribution from the General Fund was about \$45,000. Mr. Hamilton then stated this would hopefully be a way to offset that budget and see if the transit system could pay for itself and increase tourism. Council all agreed this would be good.

Councilmember Brooks stated he would like to give a directive to the Public Works Director with Mr. Hamilton stating he requested this item to brief the Council with the information, adding it will be coming to Council for them to make a decision, but noted he couldn't see a downside to it and it seems like a win/win situation. Councilmember Brooks then stated the liability and insurance may increase since the buses would be traveling more miles and possibly outside the City limits. Mr. Hamilton agreed, but noted the increases would be negligible, adding the FTA and ADOT, who are the major funding sources, are trying to push us to increase services also.

**ADJOURNMENT:**

Councilmember Moncada moved to adjourn at 6:46 p.m. Seconded by Councilmember Brooks. Motion passed 7-0.

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Toney D. King, Sr., Mayor

ATTEST:

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Vicki L. Vivian, CMC, City Clerk