

**THE WORKSESSION
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD AUGUST 12, 2013, 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 6:02 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 6:20 p.m.), Councilmembers Ron Brooks, Jeff Cook, Brian Crafts, Chris Moncada and Peter Wangsness.

NEW BUSINESS:

1. Discussion and possible direction to Staff regarding City Council Policies and Procedures, City Code as it relates to City Council and recently passed State legislation, including consolidated elections and Councilmember terms

City Clerk Vicki Vivian stated she had sent out the draft Council Policies and Procedures which was last brought to Council in October, 2012. Ms. Vivian stated the draft addresses basic Council proceedings, actions and expectations. Ms. Vivian explained this draft came by suggestions from Councilmembers who had received the Council Publications from the League, (given to newly elected Councilmembers) and wanted basic Council Procedures. Ms. Vivian then stated the draft had been postponed until the new Council could be seated. Ms. Vivian then stated also up for discussion is recently passed legislation concerning consolidated elections and Council terms, which will need to be addressed in the near future. Ms. Vivian stated Councilmember Wangsness had brought both of these items up, however they had already been on Council's radar.

Ms. Vivian then stated there was a Legislative Update held in Benson a week ago where the League came down and went over the new laws that will take effect on September 13, noting one of the changes being the Consolidated Elections Law which states all cities and towns will follow the consolidated elections in the fall of even-numbered years, which will affect Benson's elections. Ms. Vivian stated they talked about shortening or lengthening Councilmember terms to comply with the new election schedule, but at the time, the League recommended waiting to do anything until the next legislative session, where they hoped the problems with the new law would be corrected. Ms. Vivian stated 2 cities, Gilbert and Chandler have shortened their Councilmembers' terms and others have either voted to lengthen terms or have held off. Ms. Vivian stated Senate Bill 1454, in the following legislative session, addressed this situation and changed the statutes to say that cities and towns are allowed to lengthen Councilmember terms and the League's position on this is with the absence of any legal language allowing Councils to shorten terms, they suggest lengthening terms by 18 months. Councilmember Moncada asked if the bill would allow Councils to shorten terms with Ms. Vivian reading from the bill "a city or town may lengthen the terms of office for elected officials." Ms. Vivian then re-stated in the absence of any legal language allowing Councils to shorten terms, the League suggests lengthening them. Mayor King asked if his term would be affected since it is only a 2 year term with City Attorney Michael Masee stating Mayor King's term would be lengthened along with the others because the City may not have an election now that is not at the same time as a State election. Councilmember Moncada stated it does not seem like Council has a whole lot of choice but to lengthen the terms even though he does not agree with it. Councilmember Brooks stated the issue could be taken to the public to see what they want. Councilmember Moncada stated he does not think it is right to extend themselves as members of the Council for almost another full term with Councilmember Brooks stating he doesn't think it is right to shorten the Councilmembers' terms when they were elected to serve a full 4 years. Councilmember Moncada stated he thinks extending the terms could result in recalls with Councilmember Wangsness stating recalls happen anyway. Councilmember Brooks

then stated he wants to have a public hearing and let those who show up get a say and that way Council can say they gave the people a chance to speak. Councilmember Crafts stated the law doesn't mention shortening terms and asked how the Council would know if it were legal to go with a 2 year term or a 4 year term. Mr. Masee stated it is not a question of a 2 year term or a 4 year term, but is a matter of a 4 year term plus 18 months or a 4 year term less 6 months to get the City into the right even-numbered year election cycle. Mr. Masee then stated the Gilbert attorney took steps to get Gilbert on the new election cycle, adding they looked at several different ways of doing this and ultimately decided on shortening Councilmembers' terms by 6 months. Mr. Masee stated it was after Gilbert decided this that the suggestion came up to wait and see what the Legislature would do. Mr. Masee stated the City is arguably in the same place that Gilbert was when they made their decision, however the League is suggesting that terms be lengthened. Councilmember Brooks asked if it was illegal to reduce Councilmembers' terms by 6 months with Mr. Masee stating there was no explicit statutory authority. Mr. Masee then stated the attorney in Gilbert studied this issue extensively, the pros and cons of doing it both ways legally, and asked what ordinance authority and what constitutional authority they have in order to do this, adding there are risks both ways, but Gilbert felt the better of the two choices was to reduce terms by 6 months. Councilmember Brooks asked how long Council has to decide with Mr. Masee stating he would think it should be done by the end of the year so if there is going to be an election in 2014, the voters would know well ahead of time. Councilmember Brooks asked if he could get some dates so he knows what the timeline is with Mr. Masee stating the Legislature is finished meeting for this year and is unlikely to address it again next year so it would be up to Council to decide. Councilmember Brooks stated he would like a public hearing or a meeting of some type to let the public address this. Councilmember Moncada stated he agreed with Councilmember Brooks and thinks a public hearing in the beginning of September would be a good idea. Mayor King stated he would have to think about being extended for another 18 months. Ms. Vivian stated she agreed with Mr. Masee stating she thinks it would be best to decide something by the end of the year, adding if there is to be an election held in 2014, everyone would know ahead of time. Councilmember Cook asked if only one person at the public hearing expresses their opinion, would the Council listen to that one opinion and do the will of the person, adding in other words is the Council going to listen to the input at the public hearing and say they did the right thing by listening or is Council going to decide for themselves anyway. Councilmember Cook then stated it seems if the terms are extended by 18 months for the 4 Councilmembers whose term expire in 2015, then it would seem that the other 3 Councilmembers would also be extended 18 months in order to hit the next election with Mr. Masee stating the change to term lengths would affect all Councilmembers' terms. Councilmember Brooks stated it is ultimately up to the Council to decide, however he would feel better if the public had an opportunity to give input; that way he could say he tried because he didn't want to make that decision himself and he thinks that everyone should feel comfortable doing that. Mayor King stated he thinks everyone is comfortable with a worksession with Councilmember Brooks stating he would like it to be a public hearing because people tend to show up for the public hearings. Councilmember Wangsness stated if nobody shows up, it would mean there is no interest in the matter. Councilmember Cook stated that Mr. Moffett is able to generate 50 people to say what he wants and Council needs to determine if that is the will of the people or the will of the person. Mayor King stated all Councilmembers need to look at making these choices and do what is best and ask their families what they think also. Councilmember Brooks asked about Councilmembers not wanting to extend their terms and if they could resign 6 months early with Mr. Masee stating individual Councilmembers can decide to resign 6 months early so that an election may be held in 2014. Councilmember Brooks asked for clarification that elections will now be held in the fall of even-numbered years. Mr. Masee stated if the point of the resignation would be to allow an orderly election next fall then advance notice would be appreciated. Mayor King stated we will have a public hearing next month, in September, regarding lengthening or shortening terms. Councilmember Brooks asked to have some information available for the public so that they can understand what is going on with Mayor King adding it would be nice if the public could know the terms of the Councilmembers. Councilmember Wangsness stated if the public hearing was held September 3rd, the Council could then address the issue at the first meeting in September with Ms. Vivian explaining that public hearings are usually held in conjunction with a regular meeting. Mayor King suggested a 6:00 p.m. public hearing before the regular meeting at 7:00 p.m. Councilmember Cook stated the 10th is on a Tuesday, it was then agreed to have the public hearing on Monday, September 9th. Councilmember Moncada stated he would like to have the vote at the next Council meeting following the public hearing on September 23rd.

Councilmember Brooks asked if the Council was going to discuss Council Policies and Procedures at this meeting, stating he would like to be a little more involved and go through it a little better and make sure it falls in line with State statutes. Ms. Vivian stated the draft is not for adoption or approval in its current form, but is for the Council to review and edit as they see fit. Mayor King stated he would like to have another worksession so the draft can be gone over page by page. Councilmember Wangsness stated he thought a series of worksessions would be needed so the Code can be gone over page by page. Mayor King stated the first meeting in September will include the public hearing so the next worksession would be before the second meeting in September and Council could go from there. Councilmember Cook stated the person who called this meeting may have something on their mind so maybe they could guide Council on what they wanted. Mayor King stated Council should take these documents and make changes and notes and bring them back with their suggestions. Councilmember Brooks stated Councilmember Wangsness requested this item be put on an agenda and he would like to see that from now on in the blue sheet so Council will know who requested the items. Mayor King asked that the requesting Councilmember be named on the blue sheet from now on. Mr. Massee then stated the City Clerk included in the packet Chapter 2 of the City Code relating to Mayor and Council, adding there are items in the code that pertain to procedure and if Council is going to adopt something in the City Council Policies and Procedures that conflicts with the City Code, there may also need to be an ordinance adopted to change the City Code. Mayor King stated these can be done one at a time. Councilmember Brooks stated that any changes will need to be brought to the City Attorney to make sure there is no conflict with Ms. Vivian stating any time an item requiring legal review is brought to Council by a department head, the department head obtains the legal review from the City Attorney prior to submitting it to Council for action. Councilmember Cook stated this meeting has been nothing more than a meeting to schedule another meeting and he feels that Councilmember Wangsness must have had a point to having this meeting and he feels that Councilmember Wangsness should be allowed to state those reasons. Councilmember Wangsness stated he didn't call for the meeting, adding what he called for was an agenda item so that worksessions could be scheduled and the City Code could be reviewed, adding he thinks the Council should start from Chapter 1 and go through the entire code. Councilmember Cook then asked why the Council wasn't doing it now with Councilmember Brooks stating Council is looking for direction. Ms. Vivian stated the Council could direct Staff to make any changes they would like with Mayor King stating there was not enough time to address changes at the worksession, adding he would like to start at the next worksession. Councilmember Wangsness stated at the next meeting he would like to start with the Council Policies and Procedures and go from there.

ADJOURNMENT:

Councilmember Brooks moved to adjourn at 6:39 p.m. Seconded by Councilmember Crafts. Motion passed 7-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk