City of Benson
City Council Communication

Worksession **July 14, 2014**

To: Mayor and Council Agenda Item # 1

From: Vicki Vivian, CMC, City Clerk

Subject:

Discussion and possible direction to Staff regarding City Council Policies and Procedures, and/or City Code as related to City Council conduct or procedures

Discussion:

The attached document, "Council Policies and Procedures" was brought before Council in worksessions to address basic Council proceedings, actions and expectations. At a worksession held on August 12, 2013, Council decided to hold worksessions as needed to address possible changes to the Council Policies and Procedures draft, as well as possible Code changes.

During the course of these worksessions, Council made changes to the Council Policies and Procedures and the City Clerk sent the changes, as well as the minutes to the City Attorney for his legal review. The draft being presented now has the Council requested changes and changes the City Attorney determined were needed.

Once Council review and approval is received, Staff will work on Chapter 2 of the City Code to ensure consistency. Upon completion it will be presented to the Council for their consideration.

Staff Recommendation:

Council pleasure

City Council

Policies & Procedures

Manual

10-8-12

Table of Contents

I. COUNCIL MEETINGS – Dates, Times, Locations 6
A. Regular Meetings 6
B. Holidays 6
C. Other locations 6
D. Location During Local Emergency 6
E. Cancelled Meetings 6
F. Special Meetings and Emergency Meetings 6
G. Executive Sessions ..... 7~~6~~
II. NOTICES OF MEETINGS 7
III. QUORUM 7
IV. DUTIES OF MAYOR 7
A. Chair 7
B. Absence of Mayor 7
C. Absence of Mayor and Vice Mayor ..... 8~~7~~
D. Attendance by the Public ..... 8~~7~~
V. DUTIES OF COUNCIL 8
A. Establish and Maintain the Strategic Plan for the City 8
B. Set Policy through Legislation 8
C. Financial Oversight 8
VI. MINUTES ..... 9~~8~~
A. Summary Minutes ..... 9~~8~~
B. Council Minute Approval ..... 9~~8~~
C. Recordings of Meetings ..... 9~~8~~
VII. RULES OF CONDUCT ..... 9~~8~~
A. Addressing Members of Public and Staff ..... 9~~8~~
B. Council Deliberation and Order of Speakers 9
VIII. MOTIONS ..... 10~~109~~
A. Procedure for Motion ..... 10~~109~~
B. Motion Amendments ..... 10~~109~~

C. Motion to Table 10
D. Motion of Direction 10
E. Ordinances & Resolutions ..... 11~~1110~~
F. Voting ..... 11~~1110~~
G. Abstention ..... 11~~1110~~
H. Tie Votes ..... 12~~1210~~
I. Motions for Reconsideration ..... 12~~1210~~
J. Suspension of the Rules ..... 12~~1211~~
IX. OPEN MEETING LAW VIOLATIONS ..... 12~~1211~~
X. CONFLICT OF INTEREST ..... 13~~1311~~
XI. PUBLIC HEARINGS ..... 13~~1312~~
A. Continuance of Public Hearings ..... 14~~1413~~
XII. FINAL ACTION ..... 14~~1413~~
XIII. CALL TO THE PUBLIC ..... 14~~1413~~
A. Addressing Council ..... 15~~1513~~
B. Responses from Council ..... 15~~1513~~
XIV. COUNCIL MEETING AGENDA ..... 16~~1614~~
A. Call to Order ..... 16~~1614~~
B. Roll Call ..... 16~~1614~~
C. Employee Recognition ..... 16~~1614~~
D. Proclamations ..... 16~~1614~~
E. Public Hearings ..... 16~~1614~~
F. Call to the Public ..... 16~~1615~~
G. City Manager Report ..... 17~~1715~~
H. New Business ..... 17~~1715~~
I. Department Reports ..... 17~~1715~~
J. Adjournment ..... 17~~1715~~
XV. AGENDA SETTING PROCESS ..... 17~~1716~~
XVI. COMMITTEES ..... 18~~1816~~
A. Council Member Appointments and Assignments ..... 18~~1816~~
B. Council Member participation in community activities ..... 18~~1816~~
XVII. CEREMONIAL REPRESENTATIVE ..... 18~~1816~~

XVIII. ADMINISTRATIVE SUPPORT FOR COUNCIL ..... 18~~1816~~

A. Mail ..... 18~~1816~~

B. Events for Council ..... 19~~1917~~

C. Council Correspondence ..... 19~~1917~~

D. Clerical support ..... 19~~1917~~

E. Personal Correspondence ..... 19~~1917~~

F. Council notification of significant incidents ..... 19~~1917~~

XIX. CITY COUNCIL/STAFF RELATIONS ..... 19~~1917~~

XX. CITY COUNCIL RELATIONS WITH OTHER COMMITTEES/GROUPS ..... 20~~2018~~

XXI. PENALTIES AND VIOLATIONS ..... 20~~2018~~

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Detailed information about City of Benson meetings is available in the City Clerk's Office and online at the City of Benson's official website (currently www.cityofbenson.com). Materials include agendas, minutes, and other related documents. For further information on any of these subjects, please contact the City Clerk (current telephone number 520.586.2245 Ext. 2011).

This Manual is in internal guide for the Mayor and Council's use only. It is not intended to replace or supplement applicable law in the City Code, State Statutes or elsewhere. Where there is a conflict between a provision of this Manual and the law, it is the law that governs.

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I. COUNCIL MEETINGS – Dates, Times, Locations

A. Regular Meetings

The Council will hold regular meetings in accordance ~~Consistent~~ with City Code and all other applicable laws. ~~Chapter 2, Article 2-4, Section 2-4-1,~~ Under City Code at the time these~~s~~ policies and procedures were adopted, the Council ~~will~~ holds regular meetings on the second and fourth Monday of each month at seven o'clock p.m. at the City Hall Council Chambers, 120 West 6th Street, Benson, Arizona ~~Z~~ 85602.

B. Holidays

When the day fixed for any regular meeting of the Council falls upon a day designated as a City observed holiday, such meeting may be ~~rescheduled~~ held in accordance with City Code.

C. Other locations

The Council may, from time to time, elect to meet at other locations and, upon such election, shall give public notice of the date, time and location of such meeting in accordance with the relevant provisions of the Benson City Code and Arizona Revised Statutes.

Comment [b1]: Need to add an other location ordinance.

D. Location During Local Emergency

If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the City Hall Council Chambers, the meetings may be held for the duration of the emergency at such other places that may be designated by the Mayor, or the Vice Mayor if the Mayor is unavailable, or the City Manager if the Mayor and Vice Mayor are both unavailable, or a majority vote of a quorum of the Council if the Mayor, Vice Mayor and City Manager are unavailable.

Comment [b2]: Need to add a local emergency ordinance.

E. Cancelled Meetings

Council meetings may, from time to time, with adequate notice pursuant to S~~s~~tate statutes and City Code, be cancelled due to conflicts with other scheduled meetings, events or circumstances. Notice of cancelled meetings will, if possible, be posted ~~at least~~ 24 hours in advance in the same manner as notices are posted about Council meetings~~following locations: Benson City Hall, Benson Post Office and the City of Benson Library, as well as on the City's website~~.

F. Special Meetings and Emergency Meetings

Special meetings and emergency meetings of the City Council may be called and held from time to time consistent with City Code ~~Chapter 2, Article 2-4, Section 2-4-2~~ and the Arizona Revised Statutes.

G. Executive Sessions

Consistent with the City Code ~~Chapter 2, Article 2-4, Section 2-4-3~~ and the Arizona Revised Statutes ~~38-431.02 & 38-431.03, upon a majority vote of the City Council,~~ the Council may meet in a closed executive session upon a majority vote of the City Council. ~~The subject of~~ Notice of ~~the~~ executive sessions shall be ~~noticed on~~ in the agenda in accordance with State law.

II. NOTICES OF MEETINGS

~~At least 24 hours in advance of any Council Meeting~~ A~~a~~n Agenda or Notice of Meeting will be timely posted in accordance with State law in the following locations: Benson City Hall;~~,~~ ~~the~~ Benson Post Office; ~~and the City of~~ Benson Library; ~~as well as~~ and on all~~the~~ City~~'s~~ websites and official social media sites.

III. QUORUM

A quorum of the Council shall be in accordance~~Consistent~~ with City Code. ~~Chapter 2, Article 2-4, Section 2-4-4,~~ Under City Code at the time these policies and procedures were adopted, a majority of the Council shall constitute a quorum for transacting business, but a lesser number may adjourn from time to time and compel the attendance of absent members. ~~In a body of seven members, four members constitute a quorum.~~

IV. DUTIES OF MAYOR

A. Chair

The Mayor's duties are in accordance~~Consistent~~ with City Code. ~~Chapter 2, Article 2-2, Section 2-2-3~~ Under City Code at the time those policies and procedures were adopted, the Mayor: ~~shall be~~ is the chairman of the Council ~~and~~ presides over its meetings;~~. The Mayor may~~can make and second motions and ~~shall~~ have a voice and vote in all its proceedings;~~.~~and ~~The Mayor shall also have the~~ has the authority to preserve order and decorum and to conduct meeting proceedings at all Council meetings. As part of these powers, the Mayor can order the police~~, to~~ to remove any person from any meeting for disruptive behavior, to enforce the rules of the Council and to determine the order of business. Robert's Rule of Order shall be used as a guideline in deciding questions of procedure or order on matters not covered by these policies and procedures, the City Code, or State law.

B. Absence or Disability of Mayor

The Vice Mayor shall serve in accordance with the City Code. Under City Code at the time these policies and procedures were adopted, the Vice Mayor shall serve as the Acting Mayor in the absence or disability of the Mayor.

C. Absence or Disability of Mayor and Vice Mayor

City Code dictates the procedures to be followed i~~I~~n the absence or disability of both the Mayor and Vice Mayor. ~~,~~ Consistent with City Code at the time theses policies and procedures were adopted, ~~-~~the Clerk shall call the meeting to order and lead the Pledge of Allegiance and call for the invocation, if any. The first action item shall be for the Council to designate another of its members to serve as Acting Mayor. The Acting Mayor, under City Code at the time these policies and procedures were adopted, ~~who~~ shall have all the powers, duties and responsibilities of the Mayor during such absence or disability.

D. Attendance by the Public

Consistent with City Code ~~Chapter 2, Article 2-4, Section 2-4-3,~~ and except as specifically provided by City Code or State law~~Arizona Revised Statutes 38-431.01 for executive sessions~~, all meetings of the Council shall be open to the public.

V. DUTIES OF COUNCIL: Council duties are in accordance with City Code and State law. Those duties, under and/or consistent with the law at the time these policies and procedures were adopted, include but are not limited to the following.

A. Establish and Maintain the Strategic Plan for the City

The Mayor and Council will annually review ~~and approve~~ the City's Strategic Plan, updating it as determined by the Council. The Strategic Plan will then be utilized by Staff to realize the overall goals set by the Council.

B. Set Policy through Legislation

The Council is responsible for establishing policy, and for providing policy direction with the adoption of rules, regulations and procedures. The City Manager then oversees the daily operation of the government and implements the policies established by the governing body. ~~Thus, the Council is, in almost all instances, acting as the Council of the whole~~.

C. Financial Oversight

~~The City Council is fiscally responsible for the City.~~ The Council reviews and approves the annual budget and oversees its administration throughout the year. Pursuant to the City Procurement Code, certain expenditures require prior Council approval.

D. City Officers

The Mayor and Council appoint and/or approve City officers in accordance with the City Code.

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VI. MINUTES: Minutes will be made, available and retained in accordance with City Code and State law. Under and/or consistent with said law at the time these policies and procedures were adopted, the following apply:

A. Summary Minutes

Minutes of Council meetings will be summary minutes, including a brief summary of statements made to the Mayor and Council, discussion of agenda items, ~~and~~ motions, ~~made~~ and the vote. The minutes will also include the names of public speakers. ~~(ARS 38-431.01B)~~

B. Council Minute Approval

Minutes of meetings are ~~generally~~ submitted to the Council for approval, normally at the next scheduled regular meeting.

C. Recordings of Meetings

Digital recordings of Council meetings are made and retained ~~held~~ by the City Clerk for a period of 3 months after the date of the meeting. Recordings posted to the City website will remain for at least year ~~indefinitely~~.

VII. RULES OF CONDUCT

A. Addressing Members of Public and Staff

~~In general,~~W~~w~~hen wanting to address~~ing~~ members of the public or City Staff, Council Members will direct questions or comments through the Mayor (Chair) unless granted permission by the Mayor to address said questions, or comments directly, and will generally refer to persons as Mr., Mrs., or Ms., followed by their surname.

B. Council Deliberation and Order of Speakers

The Mayor, as presiding officer, is responsible for controlling the debate and order of speakers. Speakers are generally called upon in the order the Request to Speak is made.

1. With the concurrence of the Mayor, a Council Member holding the floor may address a question to another Council Member and that Council Member may respond.

2. Council Members will limit their comments to the subject matter, item or motion being currently considered by the Council.

3. The Mayor ~~Council Members~~ will govern ~~themselves~~ as to the length of Council Member~~their~~ comments. The length of such comments will not be unreasonably restricted.

4. Any member of the Council wishing to speak must first obtain the floor by being recognized by the Mayor~~ (Chair)~~. The Mayor shall not unreasonably withhold recognition from a Council Member wishing to speak~~Council Member who seeks the floor when appropriately entitled to do so must be recognized~~.

VIII. MOTIONS

Motions may be made by any member of the Council, including the Mayor. Any member of the Council, other than the person offering the motion, may second a motion.

A. Procedure for Motion

The following is the general procedure for making motions:

1. The Mayor will open agenda ~~the~~ items for discussion, and recognize speakers consistent with these policies and procedures~~ Section VI. Rules of Conduct~~. Discussion on ~~any~~ items ~~on the agenda~~ may proceed after the item has been read by the Mayor or~~ Mayor or~~ Clerk, and may proceed in advance of a motion on the item.

2. A motion can be made at any time after an agenda item has been announced by the Mayor or Clerk.~~When the speakers have given their comments, the Mayor shall then call for a motion.~~ Before a motion can be considered,~~ or debated~~ it must be seconded.

3. Once a motion has been properly made and seconded, the Mayor shall ask for~~may open the motion for~~ additional discussion by the Council.

4. Once the motion has been fully discussed and the Mayor calls for a vote, no further discussion will be allowed, except that Council Members may be allowed to briefly explain their vote after the voting process on the pending motion is completed.

B. Motion Amendments

When a motion is on the floor, and a~~n~~ motion to amend~~ment~~ is ~~offered~~made and seconded, the amendment shall be acted upon prior to acting on the main motion. If the amendment is voted on and fails, the Council will then consider the original motion on the floor for action.

C. Motion to Table

Any motion to table an item on the agenda for Council consideration ~~shall~~ need not include a date or timeframe for the item to be brought back to the Council. Tabled items can be placed on a future agenda in accordance with the "Council Meeting Agenda" policy herein.

D. ~~Motion of~~ Direction To Staff

A "Motion to~~of~~ Direct~~ion~~ Staff" generally provides Staff direction as to the City Council's request for additional information, ~~corrections/amendments~~ to draft documents for future

consideration such as~~an~~ Ordinances/Resolutions, or other such matters, to be further discussed, presented, and /or considered at a future Council meeting. Since a direction to Staff is considered Council action, a motion, second and vote is generally required.

E. Ordinances & Resolutions

The reading and passage of all ordinances and resolutions may be made by title only, providing that each member of the Council in attendance has in his or her possession, written copies of said ordinance or resolution at the time of consideration and voting thereon. The Clerk shall be responsible for maintaining an official copy of all ~~amendments made to an~~ ordinances, ~~or~~ resolutions, and amendments, thereto in the course of their ~~its~~ adoption.

F. Voting

Any Council Member at a meeting when a motion comes up for a vote shall vote for or against the measure unless he/she is disqualified from voting, for reasons such as the matter involves the Council Member's personal or official conduct, business interest, or property, or there is an actual or appearance of a conflict of interest or ~~and~~ abstains. ~~because of disqualification~~. Unless S~~s~~tate law requires a supermajority vote, the motion shall pass if it receives an affirmative vote of the majority of the members present and voting. ~~embers present and voting~~. The Mayor or Clerk should ~~shall~~ declare the result after the vote is concluded. A Council Member may change his or her vote up to the time that the results of the vote have been announced or the next agenda item is announced. All votes will be recorded in the minutes of the meeting.

G. Abstention

1. No member of the Council shall be excused from voting, except upon matters involving the consideration of his or her own personal or official conduct, business interest or property, or in which he or she declares the appearance of or an actual conflict of interest. A Council Member who declares that he or she may have the appearance of or an actual conflict of interest shall leave the dais after the agenda item is announced and before any discussion of that agenda item. A voluntary abstention shall count as an "aye" vote unless excused by an announced appearance of or an actual conflict of interest, or unless the matter involves the Council Member's personal or official conduct, business interest or property. ~~If a Council Member abstains because of a legal conflict, he/she is nevertheless counted as preset for quorum purposes and a majority of the members voting is required for the motion to pass~~. For public policy purposes, the Mayor and Council Members agree to not address the Council from off the dais as a public citizen, unless the Mayor or Council Member has an item on the agenda about that public official's property, business interest, or conduct.

2. ~~When a Council Member abstains or excuses themselves from a portion of a Council meeting because of a legal conflict of interest, the Council Member must briefly~~

~~state the nature of the conflict to be included in the public record and leave the dais for the duration of the discussion of the item. The Council Member may address Council as a member of the public in accordance with these rules but may not participate in the discussion of the item as a member of Council.~~

H. Tie Votes

A tie vote results in the motion failing. Under this circumstance, any member of the Council may offer a motion for further action, pursuant to (I) below:

I. Motions for Reconsideration

1. Motions for reconsideration of a matter may be made at the next meeting, whether regular or special, ~~meeting~~ following the Council action.

2. Motions for reconsideration may be made by a Council Member who was not in attendance and therefore, was unable to vote on the matter they are requesting for reconsideration.

3. For tie votes, in order to allow for reconsideration of the matter at a future Council meeting, two members shall contact the City Manager (one member who voted on each side of the issue).

4. A proposed motion for reconsideration at the succeeding meeting must comply with all noticing requirements in the Arizona Revised Statutes.

J. Suspension of the Policies and Procedures~~Rules~~

Except as otherwise provided by law, a~~A~~ny ~~rules~~ policies and procedures herein may be waived by a majority vote of the Council Members present, unless the rule to be waived legally requires a larger majority vote of Council, when it is deemed that there is good cause to do so.

IX. OPEN MEETING LAW VIOLATIONS

Except under circumstances, authorized by law, all meetings of the Council, and it's Committees, shall be open to the public and conducted in accordance with the Arizona Open Meetings Law, currently at A.R.S. § 38-431 *et seq*. Meetings that at any one time involve only a portion of a legislative body, but eventually involve a quorum are in violation of the Arizona Revised Statutes. These meetings deprive the public the opportunity for meaningful contribution to the decision making process. These meetings happen when Member A contacts Member B, B contacts C, C contacts D and so on until a quorum of the Council is involved and shares the comments of other Council Members in an attempt to reach consensus or determine the direction on an item that may appear before the Council. An elected official has the right to confer with another elected official about public business, but if and when a "collective concurrence as to action to be taken" is reached, the Open Meeting Law and Arizona Revised Statutes are violated. Council Members are encouraged to consider this possibility when

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discussing a matter within the City's jurisdiction with another elected official. If the Council Member needs any clarification on a possible violation, he/she should contact the City Attorney.

X. CONFLICT OF INTEREST

Per A.R.S. §38-503(A) and (B):

1. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

2. Any public officer or employee who has, or who's~~se~~ relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

Per A.R.S. §38-502(9):

1. "R~~r~~elative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

2. The City Attorney should be contacted prior to any meeting where a potential conflict of interest, whether it is actual or ~~may~~perceived, may occur.

XI. PUBLIC HEARINGS

Matters noticed for Public Hearing will be held ~~in the order~~ as posted. Members of the public have a right to speak on all matters related to the issue and subject of the Public Hearing, where a Public Hearing is required by S~~s~~tate or F~~f~~ederal law. These include, but are not limited to, zoning and rezoning of real property, budget approval, and annexation hearings. Public Hearing items are usually marked as such on all Council agendas. The Council procedure for the conduct of a Public Hearing is generally as follows:

1. Staff presents its report.

2. Council Members may ask questions of Staff.

3. The Mayor opens the Public Hearing.

4. The applicant, if relevant, has the opportunity to present comments, testimony or arguments to the Council.

5. The Mayor asks for public comment. Any person desiring to speak shall make his or her presence known to the Mayor by completing the Request to Speak form. The Mayor will call each person to speak in the order listed on the form. No person may speak without first being recognized by the Mayor. All comments must be relevant to the issue and subject of the public hearing. In order to avoid repetitious remarks from a large group, a designation of a spokesperson is encouraged and in the discretion of the Mayor, a block of time may be allotted to each side of an issue. Additional time may be permitted for the spokesperson to address the Council or for any person to raise issues or concerns that have not been previously addressed.

6. Members of the Council may ask questions of the speakers or of each other, but only after being recognized by the Mayor. Discussion or comments with the speaker shall be limited to ~~a question or~~ questions, rather than ongoing dialogue.

7. The applicant is given an opportunity for rebuttal or concluding comments.

8. The Public Hearing is closed. No other Public Comment may be taken.

9. The Council deliberates on the issue and takes action, only if the item is listed separately for possible action on the agenda~~under New Business~~. At that time, the item will have the same treatment as other ~~New~~ b~~B~~usiness items before the Council for action.

A. Continuance of Public Hearings

Any hearing being held or noticed to be held at a Council Meeting may, by motion or notice of continuance, be continued to a subsequent meeting.

~~XII. FINAL ACTION~~

~~Members of the public may address the Council during the Call to the Public on all items where the Council is taking action by approval of an ordinance or resolution, or by a motion made and seconded, and voted upon by the Council~~.

~~XIII.~~XII. CALL TO THE PUBLIC

State law and the City Code governs a call to the public. As such, the policies stated below~~The rules set forth~~ are not exclusive, and do not limit the inherent power and legal authority of the City Council, or its presiding officer, to govern the City Council meetings.

Arizona Revised Statutes §38-431-01(H) currently provides that "A public body may make an open call to the public during a public meeting, subject to reasonable time, place and a manner restrictions to allow individuals to address the public body on any issue with the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may

ask staff to review a matter or may ask that a matter raised during an open call to the public unless the matters are properly notice for discussion and legal action." As such, a Call to the Public, if on the agenda, is provided as a courtesy. In order to speak during the Call to the Public, speakers should complete the Call to the Public form requesting to do so.

A. Addressing Council

All remarks should be addressed to the Council as a whole ~~with comments directed to the presiding officer~~ and shall be limited to five (5) minutes unless additional time is granted by the presiding officer. Each person addressing the Council shall step up to the microphone at the podium, shall give his/her name and place of residence and work or business, if any, in an audible tone of voice for the record. Proper decorum should be observed by speakers. Speakers should refrain from: abusive or profane remarks; gestures to any persons present in a manner likely to provoke immediate physical retaliation; protracted commotion, utterance or display; disruptive outburst; disorderly conduct; insolent behavior; protests; or any other conduct which disrupts or interferes with the orderly conduct of the business of the meeting. Should a speaker engage in such improper decorum~~rude, defamatory or vulgar language or direct his or her comments to someone other than the presiding officer~~, he or she may~~will~~ be asked to maintain proper decorum or to refrain from speaking to anyone other than the presiding officer. If the speaker continues to engage in such improper decorum, and/or in the discretion of the presiding officer, ~~use rude, defamatory or vulgar language or to address others present~~, he or she may~~will~~ be deemed to be out of order and asked to leave the podium. In addition, the presiding officer may hold a speaker to be out of order if the topic of discussion is not a matter within the jurisdiction of the Council.~~susceptible of action by the Council.~~

1. Group remarks – In order to avoid repetitious remarks from a large group, a designation of a spokesperson is encouraged. Additional time may be permitted, at the Mayor's discretion, for the spokesperson to address the Council.

2. Written remarks – Comments in writing are accepted and will be kept as part of the retained Council packet. A copy of the written comment will be provided to each Council Member if received prior to the meeting or at the Council meeting should the comment be provided by the speaker.

B. Responses from Council

In compliance with the Arizona Revised Statutes, the Council may not discuss, deliberate or vote on any matter raised during the Call to the Public Comment. ~~The Council~~ A Council Member may, however, request that an item be put on a future agenda for discussion and consideration. A Council Member may also respond to a remark of criticism directed to that Council Member.

~~XIV.~~XIII. COUNCIL MEETING AGENDA

The business of the Council at its meetings shall be taken up for consideration and disposition in accordance with the~~Benson~~ City Code~~ Chapter 2, Article 2-4, Section 2-4-6,~~ in the following order:

- Call To Order, with the Pledge of Allegiance and Invocation
- Roll Call
- Employee Recognition
- Proclamations
- Public Hearings
- Call to the Public
- City Manager Report
- New Business
- Department Reports
- Adjournment

A. Call to Order

The Mayor shall call the meeting to order. The Mayor or the Mayor's designee shall then lead those present in the Pledge of Allegiance before introducing the invocation speaker, who will offer the invocation.

B. Roll Call

The City Clerk shall call the roll of the members.

C. Employee Recognition

The Mayor shall use this time to present employment awards to those City employees accumulating five (5) years of employment with the City and every five (5) years thereafter or to present recognition awards for specific acts regarding public service, if any.

D. Proclamations

The Mayor or the Mayor's designee shall read any proclamations which may be present on the agenda.

E. Public Hearings

The public hearings will be open for public comment and after comments are received, the Mayor will close the public hearing. The Mayor may impose reasonable time limits for each speaker and may apportion time between those speaking in favor and those speaking against the matter which is the subject of the public hearing.

F. Call to the Public

Communications and comments from the citizens regarding the City of Benson or other matters properly addressed to the City Council may~~shall~~ be heard by the Council. ~~If the presiding officer so elects, and the speaker consents, public comments may be deferred~~

~~until the specific item comes before the Council for action.~~ (Also see above discussion ~~Section XIII – Call~~about Call to the Public)

G. City Manager Report

The City Manager will announce~~update and inform the Council and the public of~~ specific items of interest regarding City matters.

H. New Business

The Council shall consider new business ~~items~~ items in accordance with the City Code. This includes~~ing~~, but is not limited to, ordinances and resolutions, presentations and may provide for a consent agenda in accordance with procedural rules adopted by the Council.

1. Consent Agenda – The consent agenda will be the first item under this category and shall list separately distinct items requiring action by the City Council that are generally routine items not requiring Council discussion. A single motion will approve all items on the consent agenda. A Councilmember may remove any issue from the consent agenda, and that issue will be discussed and voted upon separately, immediately following the consent agenda under its proper regular category of New Business.

2. Action Items Listed for Discussion – These items may also include ordinances, resolutions, contracts or other matters listed as separate action items, which shall be voted upon separately. City Staff or an applicant may address the Council regarding the action item, to include taking questions from Councilmembers. New Business may also include updates by Staff on current issues facing the City that have been or may be the subject of Council action.

~~2.~~3. Updates on Ongoing Projects and City Activities — New business may include updates by Staff on current issues facing the City that have been or may be the subject at Council action.

I. Department Reports

Written Department Reports will be provided to Councilmembers as part of the Council packet.

J. Adjournment

The Council, may, by a majority vote of those present, adjourn from time to time to a specific date and hour. A motion to adjourn shall always be in order and decided without debate.

~~XV.~~XIV. AGENDA SETTING PROCESS

The Mayor or two Council Members may, through the City Manager, request specific items/issues placed on the agenda for discussion, direction, and/or~~/~~action.

~~XVI.~~XV. COMMITTEES

Committees are formed in accordance with the City Code. They are generally created on an as-needed basis with a ~~clearly~~ defined purpose. Committees shall consist of as many members, and shall perform such duties as the Council may require, and shall exist at the pleasure of the Council. ~~The City Council shall appoint a chairperson to serve as a voting member of a committee. Council Members appointed to a committee may abstain from voting on matters to be forwarded to the full Council for consideration to allow the Council member(s) to obtain additional input from the public process.~~

~~A. Council Member Appointments and Assignments~~

~~The Mayor appoints, and the Council confirms, Council Member assignments to outside agencies, committees, task forces and liaison roles.~~

~~B.~~A. Council Member participation in community activities

From time to time, Council Members may choose to voluntarily participate in community activities, committees, events and task forces. When a Council Member participates in these types of activities, the Council Members is acting as an interested party rather than acting on behalf of the City Council. Acting or participating on behalf of the City Council is limited to those instances when the Council has formally designated that Council Member as a member or ~~its~~a representative for the matter. Unless the Council has formally designated a Council Member as a member or City representative, all correspondence and dialogue should inform all participants of the activity, committee or event that the Council Member is acting on his or her own behalf and not as a representative ~~does not represent the City~~.

~~XVII.~~XVI. CEREMONIAL REPRESENTATIVE

~~Mayor to act as Council Ceremonial Representative~~ – The Mayor is~~has been delegated the~~ responsibible~~ile~~ ~~ity~~ to act as the Council's ceremonial representative at public events and functions. In the Mayor's absence, the Vice Mayor will assume this responsibility. In both the Mayor and Vice Mayor's absence, the Mayor will appoint another Council Member to assume this~~e~~ responsibility.

~~XVIII.~~XVII. ADMINISTRATIVE SUPPORT FOR COUNCIL

A. Mail

All mail addressed to the Mayor and members of Council~~, whether business related or personal,~~ is delivered to the City Clerk's and/or Manager's Office, ~~which will~~ and is then timely ~~be~~ distributed to their respective mailbox at the Clerk's Office.~~–~~ The Clerk maintains public records in accordance with applicable law.

B. Events for Council

In conjunction with the City Manager's office, the City Clerk's office will use best efforts to coordinate Council official activities, events and RSVPs as necessary. The Clerk's office will also use best efforts ~~make~~to make travel arrangements to include hotel reservations and confirmations and use of the City vehicle by Council members where appropriate for official activities.~~.~~

C. Council Correspondence

All correspondence to other government agencies or political subdivisions from Council Members written with City resources (i.e., letterhead, staff support, e-mail involving City matters, postage, etc.) should reflect the position of the majority of the Council, and not the individual Council Member's position. All correspondence using City resources will be copied to the full Council and a copy will be made for the City Clerk for records. Personal recommendations or thank you notes do not need to be copied.

D. Clerical support

The City Manager's office will coordinate any support requested by a Council Member, including typing of correspondence or mailings. All correspondence prepared for Council Members will be on City letterhead and will reflect the position of the majority of the Council, and will be copied to the full Council.

E. Personal Correspondence

Correspondence reflecting personal positions will be prepared on personal stationary and sent at the Council Member's personal expense.

F. Council notification of significant incidents

The City Manager will use best efforts ~~coordinate~~to coordinate the notification to Council of events that, in his or her discretion, constitute major crime, fire, or other significant incidents in the City about which the Council needs immediate notice.

~~XIX.~~XVIII. CITY COUNCIL/STAFF RELATIONS

1. There shall be mutual respect from both Staff and Council Members of their respective roles and responsibilities.

2. The Council acknowledges and supports the Council/Manager form of government. City Staff ~~shall~~ acknowledges and supports the Council's role as policy makers and the City Council ~~shall~~ acknowledges and supports the City Manager's role as responsible for administering the Council's policies. Under City Code at the time these policies were adopted, the Council deals with the administrative services of the City only through the City Manager, and neither the Council nor any members thereof shall give orders to any subordinates of the City Manager.

3. If a Council Member requests Staff research on any issue requiring over 8 hours of staff work without first seeking approval of the entire Council at a public meeting, then the Council Member shall be notified by the City Manager and the request shall be presented to the Council for consideration.

4. Legal advice can be requested in accordance with the City Code. No Council Member shall request a written legal opinion from the City Attorney that the City Attorney believes will require more than two hours of time to research and prepare, without first seeking direction from the Council at a public meeting, which may include an executive session. ~~The~~An exception is a request for an opinion regarding a possible conflict of interest.

5. Information requested by a Council Member generally will be shared with the entire Council.

~~XX.~~XIX. CITY COUNCIL RELATIONS WITH OTHER COMMITTEES/GROUPS

1. Individual Council Members shall have the right to attend commission or board meetings but shall not speak or become involved in the meeting discussion unless the Council Member is an ~~the~~ appointed Member or Liaison to that commission or board, or an item regarding the Council member's business, property or conduct is at issue at said meeting. ~~(meaning the Council Member may not participate in the ongoing dialogue of the commission or board).~~ ~~Council Members are allowed to address the commission or board as a citizen during public comment~~. If a Council Member appears before a commission or board as a citizen, they should specifically advise that they are appearing in their individual capacity and not in their official capacity, and comments they make~~made~~ must be related~~ive~~ to the issue being discussed, and said Council Member may not use their position as a Council M~~m~~ember to influence the outcome of a decision~~in making comments~~.

2. If a member of the City Council appears before another government agency or organization to give a statement on an issue affecting the City, the Council Member should first indicate the majority position and opinion of the Council. Personal opinions and comments may be expressed only if the Council Member clarifies that these statements do not represent the position of the City Council.

~~XXI.~~XX. PENALTIES AND VIOLATIONS

Personal violations, such as a public officer or employee releasing confidential information that is protected from disclosure by statute or tampering with a public record carry penalties that can range from removal from office, imposition of civil penalties and possible conviction of a felony.

CHAPTER 2 MAYOR AND COUNCIL

ARTICLE 2-1 COUNCIL [1]

2-1-1 Elected Officers
2-1-2 Corporate Powers
2-1-3 Duties of Mayor, Vice Mayor and Council
2-1-4 Vacancies in Council
2-1-5 Compensation
2-1-6 Oath of Office
2-1-7 Bond
2-1-8 Financial Disclosure Statements

Section 2-1-1 Elected Officers

The elected officers of the city shall be a Mayor, directly elected by the people pursuant to Article 2-3 of this code, and six councilmembers, one of whom shall be designated as the vice mayor in accordance with Section 2-2-1. The mayor, vice mayor and the other five councilmembers shall constitute the council and shall continue in office until assumption of duties of office by their duly elected successors. The regular term of office for the Mayor shall be two (2) years and the regular term of office for the other six councilmembers shall be four (4) years.

Section 2-1-2 Corporate Powers

The corporate powers of the city shall be vested in the council and shall be exercised only as directed or authorized by law. All powers of the council shall be exercised by ordinance, resolution, order or motion.

Section 2-1-3 Duties of Mayor, Vice Mayor and Council

The mayor, vice mayor and council shall meet regularly to carry on the business of the city including but not limited to:

A. Passage of ordinances, resolutions and motions.

B. Preparing and overseeing the city's budget.

C. Appointing officers of the City and members of commissions and committees.

D. Hearing of reports and recommendations of city employees and officers.

E. Such other activities concerning the general welfare of the citizens of the city.

[1] Modified by Ordinance 541

Section 2-1-4 Vacancies in Council [1]

A. The council shall fill by appointment for the unexpired term any vacancy that may occur for whatever reason. The appointment shall be made within thirty days of the date the vacancy occurs.

B. City residence, for the purpose of qualification to serve on the city council, shall consist of maintaining, by the councilmember, a principal place of abode for the councilmember and the councilmember's family within the city. In the event that a councilmember removes their principal place of abode to a location outside the city limits for a period of more than fifty consecutive days, the council seat to which such councilmember was elected shall be deemed vacant by operation of law. In the event that a councilmember resides outside the city temporarily, the remaining members of the council, upon finding such residence to be temporary may, by a majority vote thereof, authorize such temporary residence and not declare the council seat vacant for up to an additional fifty days.

Section 2-1-5 Compensation [2]

The mayor and members of the council shall be paid four hundred dollars ($400.00), and two hundred dollars ($200.00) per month respectively. If the mayor or members of the council miss two consecutive meetings, the pay shall be withheld for those meetings, based upon a monthly schedule of two regular meetings, unless the absence is excused by the council.

Section 2-1-6 Oath of Office

Prior to the assumption of the duties of office, and at or prior to the commencement of the term of office, the Mayor and each Councilmember shall, in public, take and subscribe to the oath of office after receiving the officer's certificate of election.

Section 2-1-7 Bond

Prior to taking office, every councilmember shall execute and file an official bond, enforceable against the principal and his sureties, conditioned on the due and faithful performance of his official duties, payable to the state and to and for the use and benefit of the city or any person who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity. A person so injured or aggrieved may bring suit on such bond under provisions identical to those contained in A.R.S. §38-260. Bonds shall be in such sum as shall be provided by resolution and the premium for such bonds shall be paid by the city. Nothing in this section shall preclude the city from obtaining a blanket bond pursuant to the provisions of A.R.S. §9-302.

Section 2-1-8 Financial Disclosure Statements

The mayor and each member of the council shall file by January 31 of each year, on a form prescribed by the clerk, a financial disclosure statement, setting forth such information as determined by resolution of the council.

ARTICLE 2-2 MAYOR AND VICE MAYOR

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[1] Modified by Ordinance No. 265
[2] Modified by Resolution 2-2007

MAYOR AND COUNCIL

2-2-1 Selection of Mayor and Vice Mayor
2-2-2 Acting Mayor
2-2-3 Powers and Duties of the Mayor
2-2-4 Failure to Sign Documents

Section 2-2-1 Selection of Mayor and Vice Mayor

The Mayor shall be directly elected by the people by a majority vote of the qualified electors pursuant to Article 2-3 of this code. Each year in which an election to Council is held, the councilmembers shall at the first regular meeting after taking the oath of office, choose a vice mayor from among their number. The council may, at any regularly scheduled meeting at which all seven councilmembers are present, upon proper motion, second and majority vote, reselect the position of vice mayor.

Section 2-2-2 Acting Mayor

In the absence or disability of the Mayor, the Vice Mayor will serve as the Acting Mayor. In the absence or disability of the Mayor and Vice Mayor, the Council may designate another of its members to serve as Acting Mayor. The Acting Mayor shall have all the powers, duties and responsibilities of the Mayor during such absence or disability.

Section 2-2-3 Powers and Duties of the Mayor

The powers and duties of the mayor shall include the following:

A. Shall be the chief executive officer of the city.

B. Shall be the chairman of the council and preside over its meetings. May make and second motions and shall have a voice and vote in all its proceedings.

C. Shall enforce the provisions of this code.

D. Shall execute and authenticate by his signature such instruments as the council, or any statutes, ordinances, resolutions, or this code shall require.

E. Shall make such recommendations and suggestions to the council as may be considered proper.

F. May, by proclamation, declare a local emergency to exist due to fire, conflagration, flood, earthquake, explosion, war, bombing, or any other natural or man-made calamity or disaster or in the event of the threat or occurrence of riot, rout or affray or other acts of civil disobedience which endanger life or property within the city. After declaration of such emergency, the mayor shall govern by proclamation and impose all necessary regulations to preserve the peace and order of the city, including but not limited to:

1. Imposition of a curfew in all or any portion of the city.

2. Ordering the closing of any business.

3. Closing to public access any public building, street or other public place.

4. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the political subdivision for assistance.

G. Shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the city.

Section 2-2-4 Failure to Sign Documents [1]

If the mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument requiring a signature for two business days consecutively, then the Vice Mayor shall be authorized to sign such ordinance, resolution, contract, warrant, demand or other document or instrument which when so signed shall have the same force and effect as if signed by the mayor.

ARTICLE 2-3 COUNCIL ELECTION

2-3-1 Candidate Financial Disclosure
2-3-2 Non-Partisan Elections
2-3-3 Optional Municipal Election Procedure
2-3-4 Direct Election of the Mayor

Section 2-3-1 Candidate Financial Disclosure

Each candidate for the office of councilmember shall file a financial disclosure statement on a form prescribed by the clerk when such candidate files a nomination paper. The statement shall contain such information as required by resolution of the council.

Section 2-3-2 Non-Partisan Elections

No paper or document, including the ballot, used in the procedures for the election of members of the council shall identify any candidate by partisan party affiliation.

[1] Modified by Ord. No. 548

Section 2-3-3 Optional Municipal Election Procedure [1, 2]

A. Any candidate who shall receive at the primary election a majority of all the votes cast shall be declared to be elected to the office for which he is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate; provided that if more candidates receive a majority than there are offices to be filled, those candidates equal in number of the offices to be filled with the highest number of votes shall be declared elected.

B. Nothing on the ballot in any election shall be indicative of the support of the candidate.

C. If at any primary election held as above provided, there be any office for which no candidate is elected, then as to such office, the primary election shall be considered to be a primary election for nomination of candidates for such office, and the general municipal election shall be held to vote for candidates to fill such office. Candidates to be placed on the ballot at the general municipal election shall be those not elected at the primary election and shall be equal in number to twice the number to be elected to any given office or less than that number if there be less than that number of candidates running for that office during the primary election. Candidates, to include any candidate who qualified and ran during the primary election as a write-in candidate pursuant to A.R.S. §16-312 as amended, who receive the highest number of votes for the respective offices at such first election shall be the only candidates nominated to run at such second election, provided that if there be any person who, under the provisions of this section, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefore, then all such persons receiving an equal number of votes shall likewise become nominated candidates for such office.

D. At the general election, the candidates equal in number to the offices to be filled who receive the highest number of votes shall be declared elected.

Section 2-3-4 Direct Election of the Mayor [3]

A. Commencing with the next regularly scheduled Primary and/or General Election after approval by a majority vote of qualified electors voting at the next regularly scheduled election, the Mayor shall be directly elected by the people by a majority vote of the qualified electors.

B. The term of the Mayor shall be for two (2) years.

C. Any candidate who shall receive at the Primary Election held by the City of Benson, a majority of all votes cast for Mayor at such Primary Election shall be declared to be elected to the office of Mayor effective as of the date of the General Election for the City of Benson and, said candidate shall not be required to run for Mayor at the General Election.

D. The provisions of sections 2-3-1, 2-3-2 and 2-3-3 are applicable under this section.

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[1] Added by Ordinance No. 272

[2] Modified by Ordinance No. 556

[3] Added by Ordinance No. 444

E. A candidate cannot run for both Mayor and Councilmember at the same election.

F. Councilmembers who desire to run for Mayor must resign their position on the Council as of the day they submit their nomination papers, unless they are in the last year of their term.

G. All other provisions of the Code of the City of Benson and Arizona State Statutes dealing with municipal elections are hereby declared to be applicable to the direct election of the Mayor for the City of Benson.

ARTICLE 2-4 COUNCIL PROCEDURE

2-4-1 Regular Meetings
2-4-2 Special Meetings
2-4-3 Meetings to be Public
2-4-4 Quorum
2-4-5 Agenda
2-4-6 Order of Business
2-4-7 Committees and Commissions
2-4-8 Voting
2-4-9 Suspension of Rules

Section 2-4-1 Regular Meetings[1, 2]

The council shall hold regular meetings on the second and fourth Monday of each month at seven o'clock p.m., provided that when the day fixed for any regular meeting of the council falls upon a day designated by law as a legal holiday, such meeting may be held at the same hour of the next succeeding day not a holiday if the council so elects upon motion at a prior meeting. All regular meetings of the council shall be held at the city hall. Council may, upon motion at any regular meeting, elect to cancel the succeeding meeting if it appears in its sole discretion that the items to be considered at the succeeding meeting may properly be postponed to the next regular meeting.

Section 2-4-2 Special Meetings

The mayor or a quorum of the council may convene the council at any time after giving at least twenty-four hours notice of such meeting to members of the council and the general public. The notice shall include the date, hour and purpose of such special meeting. In the case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances.

Section 2-4-3 Meetings to be Public

A. All official meetings of the council at which any legal action is taken shall be open to the public. Notice of meetings shall be given in a manner consistent with state statutes. Upon approval by a majority vote of the council, the council may meet in a closed executive session as provided by state law.

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[1]Modified by Ordinance No. 325

[2]Modified by Ordinance No. 494

B. Minutes of executive sessions shall be kept confidential except from members of the council.

C. No executive session may be held for the purpose of taking any final action or making any final decision.

Section 2-4-4 Quorum

A majority of the councilmembers shall constitute a quorum for transacting business but a lesser number may adjourn from time to time and compel the attendance of absent members.

Section 2-4-5 Agenda

Prior to each council meeting, or on or before a time fixed by the council for preparation and distribution of an agenda, whichever is earlier, the clerk shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the council, and prepare an agenda according to the order of business and shall furnish each council member, the mayor and the attorney with a copy of the agenda and any material pertinent thereto.

Section 2-4-6 Order of Business[1]

The business of the council shall be taken up for consideration and disposition in the following order:

A. Call to Order. The mayor shall take the chair precisely at the hour appointed for the meeting and shall immediately call the council to order. The Mayor or his designee shall then lead those present in the pledge of allegiance before introducing the invocation speaker, who will offer the invocation. In the absence of the mayor and vice mayor, the clerk shall call the council to order and an acting mayor shall be selected to chair the meeting. Upon the arrival of the mayor or vice mayor, the acting mayor shall immediately relinquish the chair upon the conclusion of the business immediately before the council. The mayor shall preserve order and decorum and conduct the proceedings of the meetings.

B. Roll Call. Before proceeding with the business of the council, the clerk or deputy shall call the roll of the members, and the names of those present shall be entered in the minutes. If a quorum is not present, the members present may adjourn pursuant to Section 2-4-4 of this code.

C. Employee Recognition. The Mayor shall use this time to present employment awards to those City employees accumulating five (5) years of employment with the City and every five (5) years thereafter or to present recognition awards for specific acts regarding public service, if any.

D. Proclamations. The Mayor or his designee shall read any proclamations which may be present on the agenda.

[1]Modified by Ordinance No. 470

E. Public Hearings. The Mayor will open the public hearing, if listed on the agenda, to receive comments from the public in opposition or support of the proposed subject of the public hearing. After comments from the public are received, the Mayor shall close the public hearing. The Mayor may impose reasonable time limits for each speaker and may apportion time between those speaking in favor and those speaking against the matter which is the subject of the public hearing.

F. Call to the Public. Communications and comments from citizens regarding the City of Benson or other matters properly addressed to the City Council shall be heard by the Council. Such remarks shall be addressed to the Council as a whole and shall be limited to five (5) minutes unless additional time is granted by the Council. If the presiding officer so elects, and the speaker consents, public comments may be deferred until the specific item comes before the Council for action. No questions shall be asked of a Councilperson except through the presiding officer.

G. City Manager Report. The City Manager will update and inform the public of specific items of interest regarding City matters.

H. New Business. The council shall consider any business not heretofore considered including the introduction of ordinances and resolutions and may provide for a consent agenda in accordance with procedural rules adopted by the Council.

1. Consent Agenda. The consent agenda will be the first item under this category and shall list separately distinct items requiring action by the City Council that are generally routine items not requiring council discussion. A single motion will approve all items on the consent agenda, including any resolutions or ordinances, or claims/invoices that are of a routine nature. A Council Member may remove any issue from the consent agenda, and that issue will be discussed and voted upon separately, immediately following the consent agenda under its proper regular category of New Business.

2. Action Items Listed for Discussion. New Business shall also include ordinances, resolutions, motions, contracts or other matters listed as separate action items, which shall be voted upon separately and in the order presented on the agenda unless a motion to deviate from the listed order on the agenda is made and passed. City staff or an applicant may address the Council regarding the action item, to include taking questions from Councilmembers, after which Council shall entertain such discussion that it deems proper. Such discussion may include a motion to amend or motion to table, which takes precedence over the motion to consider the item and which shall be voted upon as part of the discussion of the item if there is a second to the motion. At the end of the discussion, the Mayor shall call for a motion and the Clerk shall record the results thereof in the official minutes.

3. Updates of On-Going Projects and City Activities. New Business may also include updates by Staff on current issues facing the City that have been or may be the subject of Council action.

I. Department Reports. Written Department Reports will be provided to councilmembers as part of the council packet.

J. Adjournment. The council may, by a majority vote of those present, adjourn from time to time

to a specific date and hour. A motion to adjourn shall always be in order and decided without debate.

Section 2-4-7 Committees and Commissions

The council may create such committees and commissions, standing or special, as it deems necessary. They shall consist of as many members and shall perform such duties as the council may require and shall exist at the pleasure of the council.

Section 2-4-8 Voting

A. The mayor may vote as a member of the council.

B. Upon the request of any member, the ayes and nays upon any question shall be taken and entered in the minutes.

Section 2-4-9 Suspension of Rules

Any of the provisions of this article may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths of the members present, except that this section shall not be construed to permit any action that is contrary to state statutes.

ARTICLE 2-5 ORDINANCES, RESOLUTIONS AND CONTRACTS

2-5-1 Prior Approval
2-5-2 Introduction
2-5-3 Passage of Ordinances and Resolutions
2-5-4 Requirements for an Ordinance
2-5-5 Signatures Required
2-5-6 Publishing Required
2-5-7 Posting Required

Section 2-5-1 Prior Approval

All ordinances, resolutions and contract documents shall, before presentation to the council, have been reviewed as to form by the attorney. When there are substantive matters of administration involved, all ordinances, resolutions and contract documents shall be referred to the person who will be charged with the administration of such ordinance, resolution or contract. Such person shall have an opportunity to present comments, suggestions and objections, if any, prior to the passage of the ordinance, resolution or acceptance of the contract.

Section 2-5-2 Introduction

Ordinances, resolutions and other matters or subjects requiring action by the council shall be introduced and sponsored by a member of the council, except that the attorney, the manager or the clerk may present ordinances, resolutions and other matters or subjects to the council, and any councilmember may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted; otherwise they shall not be considered.

Section 2-5-3 Passage of Ordinances and Resolutions[1]

[1]Modified by Ordinance No. 278

A. All ordinances and resolutions shall be declared passed and in full force and effect from and after their passage by the affirmative vote of a majority of councilmembers present at any legally convened city council meeting subject to the provisions of Section 2-5-5 and 2-5-7 of this code.

B. The reading and passage of all ordinances and resolutions may be made by title only, providing that each member of the council in attendance has in his or her possession, written copies of said ordinance or resolution at the time of consideration and voting thereon.

C. The clerk shall certify the minutes of any council meeting at which an ordinance, resolution or franchise, except an emergency ordinance, is passed.

Section 2-5-4 Requirements for an Ordinance

Each ordinance may have only one subject, the nature of which is clearly expressed in the title. Whenever possible, each ordinance shall be introduced as an amendment to this code or to an existing ordinance and, in such case, the title of the sections to be amended shall be included in the ordinance.

Section 2-5-5 Signatures Required

Every ordinance passed by the council shall, before it becomes effective, be signed by the mayor and attested by the clerk.

Section 2-5-6 Publishing Required

Only such orders, resolutions, motions, regulations or proceedings of the council shall be published as may be required by state statutes or expressly ordered by the council. All notices of election, invitation for bids, notices of letting contracts, laws and ordinances approved or issued by the council must be published pursuant to A.R.S. §9-812, as provided in A.R.S. §39-204, in a newspaper of general circulation printed in English. If published in a weekly newspaper, publication shall be for two consecutive weeks; if a daily publication is used, publication shall be for four consecutive times unless otherwise required by law.

Section 2-5-7 Posting Required [1]

Every ordinance imposing any penalty, fine, forfeiture or other punishment shall after passage be posted by the clerk in three or more public places within the city, and shall be in force from and after the date of posting. Posting shall be established by an affidavit of the person who posted the ordinance, and said affidavit shall be filed in the office of the city clerk as proof of posting.

ARTICLE 2-6 LEGAL ADVICE FROM THE CITY ATTORNEY[2]

Not withstanding the provisions of Article 3-3, the Mayor and members of the City Council may individually make inquiries requesting legal advice from the City Attorney in matters of law pertaining to their offices.

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[1] Modified by Ordinance No. 278

[2] Modified by Ordinance No. 522

MAYOR AND COUNCIL