

**WORKSESSION
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JANUARY 13, 2020 AT 6:00 P.M.
AT THE BENSON COMMUNITY CENTER, 705 W. UNION STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor King called the meeting to order at 6:02 p.m. with the Pledge of Allegiance.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Joe Konrad, Councilmembers: Pat Boyle, Larry Dempster, Lupe Diaz, Nick Maldonado and Barbara Nunn.

NEW BUSINESS:

1. **Presentation and discussion on the purpose and processes for Building Codes, Plan Review, Site Inspections, and Permitting**

City Manager Vicki Vivian stated this worksession was being held to discuss the purpose and processes for Building Codes, Plan Review, Site Inspection and Permitting; enabling the Council to dialog with Staff regarding such matters. Ms. Vivian stated a second worksession focused on compliance and enforcement was tentatively scheduled for January 27; then added Michael (Mac) McMillan, CBO (Certified Building Official), a contract employee from Brown & Associates, was in attendance for an informative presentation and available for questions.

Mayor King proposed discussing these subjects in two worksessions with a third worksession, if necessary, since these are only one-hour sessions.

Mr. McMillan stated he would be going over the basics of their process and code information to review with Council the Development Services Department and what they do, with another follow-up session planned, noting they hope to generate questions from Council and answer them at the next presentation. Mr. McMillan then stated the first presentation was to help Council understand codes and their purpose, and the planning review and inspection process.

Mr. McMillan then stated he has over 20 years of experience in the construction and building safety industry with his primary certifications as Building Official, Plans Examiner, and Inspector, and he has several other certifications as well. Mr. McMillan then stated he is currently the Interim Building Official for the City of Benson and he has provided services to the City of Benson since 2007, noting he moved to Benson in 2007, and he and his family are very imbedded in Benson, as this is where they shop and live. Mr. McMillan then stated as a local, he can relate to anything going on and resolve complaints, he knows a lot of people, and is very connected to the community.

Mr. McMillan stated their department comprises of the Building Official, the Permit Technician, the Inspector, and Planning & Zoning, adding at the current time Michelle Johnson has been serving in both Planning & Zoning and the Permit Technician positions, noting the Permit Technician position has not been filled since the furloughs. Mr. McMillan then stated he would be discussing this position soon with City Manager Vicki Vivian, to help provide customer service because permitting has increased considerably with more customer contact and the Inspector can't be in the office when he needs to be out in the field. Mr. McMillan stated their department has increased their interaction with other City Departments including Public Works on gas, water, and sewer; in providing code services to the Fire Department and with the Finance Department on new business walk-throughs and other items related to a new business.

Mr. McMillan started his presentation explaining that in Babylon, in the year 229, in the famous city of Antiquity, there was a code in place stating if a builder builds a house for someone and does not construct it properly, and the house falls in and kills the owner, that builder shall be put to death; if it kills the son of the house's owner, the son of that builder shall be put to death; and so on. Mr. McMillan asked the Council to imagine enforcing such a code; then stated the theme in the presentation continues but to a lesser extent, noting when there are construction failures, they are remedied through lawsuits, the court system, replacement of materials, replacement of labor, and so on.

Mr. McMillan then stated after the great fires in London in 1666, and Chicago in 1871, building codes started addressing the risks that one building posed to an adjacent building, and to the public, and they started paying attention to fire separation. Also, denser development in cities plus hazards associated with proximity and taller buildings, led to regulations for the construction of common walls between buildings and outlawing dangerous practices like wooden chimneys.

Mr. McMillan then described the industrial revolution with people moving into the cities because of the convenience of the markets, shops, living close to each other, jobs, and having services available which culminated into problems in the existing buildings, noting this led to codes for lights and ventilation, fire escapes, water supply, toilets and sanitary drains, and stairs and railings. Mr. McMillan stated at that point it moved from the fire side of things to the comforts of running water and indoor plumbing, and these issues were then added into the codes. Mr. McMillan then stated in 1905, a U.S. insurance group, the National Board of Fire Underwriters, created the National Building Code to minimize risks to property and building occupants, adding the first actual Building Code was published in 1927.

Mr. McMillan stated the purpose of these codes was to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress, facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment. Mr. McMillan stated this was to provide safety to fire fighters and emergency responders plus occupants and people around the buildings, adding these codes are the minimum code requirements, meaning the least that can be done and that is what the code represents, and the reason it represents that is because it's a safety issue and it provides sustainable buildings.

Mr. McMillan stated since the early twentieth century the system of building regulations in the United States was based on model building codes developed by three regional model code groups: the Building Officials Code Administrator's International for the Northeast (BOCA), the Southern Building Code Congress International for the Southeast (SBCCI), and the International Conference of Building Officials for the Midwest and West (ICBO). Mr. McMillan stated in 1994 the Federal Government got involved and decided to combine all three codes into one which is how the International Code Council (ICC) was primarily enacted, adopted and used here in the United States; and now it is all over the world with a worldwide collaborative effort to publish and make changes to the code and bring the code to the current edition. Mr. McMillan then stated the codes are developed, written and published within the United States, although the model codes are adopted throughout the world.

Mr. McMillan stated the City of Benson adopted its first Building Code in 1947, adding there were some regulations in place prior to that, noting the actual City Code wasn't a Building Code, but was through Zoning Regulations. Mr. McMillan then stated the ICBO Uniform Codes were adopted in 1979, and now the Council has adopted up to the 2015 edition which was adopted in 2017. Mr. McMillan explained that the prior Council adopted these codes in order to keep what is called the City's Insurance Service Office rating, noting the City has to adopt those codes every five years so it is important to continue to update codes on a regular basis in order to keep insurance rates down. Mr. McMillan then stated in addition, the new codes help keep up with technology, which is moving in a fast pace, with new materials and things like that, adding some of these items were not covered in the 2006 or 2003 editions and by updating the codes, it allows the City to stay up with technology, new materials, and new ways to do things.

Mr. McMillan stated code development is based on events that present a loss of life, property loss, or a known and inherent danger, typically on a reactive instead of a pro-active action, adding in other words something must

happen for there to be a substantial change to the codes. Mr. McMillan stated one of the largest fires that happened in 1940 was the Rhythm Club Dance Hall with 207 deaths; the fire was caused and exploded because of decorative Spanish moss that ignited at the front of the building and moved rapidly to the rear trapping people in the back of the building where there weren't any exits. Mr. McMillan stated in response, regulations were added to cover decorative materials, but it took five to ten years for the codes to change. Mr. McMillan then stated in 1942 basically the same thing happened with a fire causing 492 deaths due to artificial coconut palms and cloth covered ceilings which ignited in the basement and spread through an open staircase which basically acted like a chimney and blocked the main exit; once again people were entrapped and not able to get out, and that added additional requirements for decorative material and the rating of shafts at that point.

Mr. McMillan then stated in 2003, the same thing happened with the event known as the Station Nightclub fire in Rhode Island, adding it occurred about 11 p.m. and engulfed the entire club in 5 ½ minutes, and is considered to be the fourth deadliest nightclub fire in American history, killing 100 people. Mr. McMillan stated there was foam on the outside walls and the ceiling, and fireworks were set off which ignited the foam. Mr. McMillan then stated one thing to remember about this incident was that this was a restaurant, noting when it was originally constructed, inspected and issued a Certificate of Occupancy, the occupant load was considerably less than after they switched it over to a nightclub. Mr. McMillan stated the tables and chairs were all removed, a dance floor and a stage were added, and it pretty much doubled the occupant load, noting the occupant load was about 460 the night of the fire. Mr. McMillan then stated in this fire 130 people were non-injured, 230 people were injured, and 100 people died in less than 5 minutes. Mr. McMillan then stated the owner had never applied for a Change of Occupancy Permit so the jurisdiction never had an opportunity to go in and see what was going on, adding if they had, there would have been significant changes made to the building at that time, such as additional exits in the rear (none of the exits were properly marked and a couple were blocked) and the addition of fire sprinklers. Mr. McMillan then stated because people tend to go out the same door they come in by habit, in this emergency some people passed away from being trampled. Mr. McMillan then stated in changing the use from a restaurant to a bar, people wouldn't think it would require much, but because of the occupancy level, there were safety measures that needed to be put in place. Mr. McMillan then spoke about balcony collapses, stating since 2003 there have been about 6,500 people injured in balcony collapses, so the loads used to calculate design was increased due to the possibility of abnormal conditions. Mr. McMillan stated in a normal residential structure, you could consider there is probably one person per 200 square feet, so there might be six people in a house, but in a college or in a dorm, or when someone is having a party and everyone piles out to smoke on the balcony, the loads had to be increased to compensate for those conditions. Mr. McMillan then stated looking at the materials for construction gave them a better understanding of these products, adding they learned that a lot of older structures were constructed with old growth trees like 100-year and 60-year, and now they use trees much younger which don't have the same strength because the wood is not as strong as it used to be so they increased the 2 x 6 construction requirements to 2 x 8 construction due to the fact that the wood used today is not as strong as it used to be, adding these are some additional reasons to update the codes to stay up with the times and technology.

Mr. McMillan then restated that code development is based on events that present a loss of life, property loss, or a known and inherent danger, on new materials and technology, and innovation of the built environment on a reactive instead of a pro-active action, noting the conclusion is that the Governing bodies need to be proactive and positive in protecting its citizens, business owners, visitors, and public and private property.

Mr. McMillan then stated another situation is the added requirement for sprinklers in residential structures, noting the State put a moratorium on this requirement, so it cannot be enforced if it wasn't already in place before the moratorium. Mr. McMillan then stated the reason is because older homes have a lot of hard woods which don't necessarily burn fast, adding if particle board is burned next to a 2x4, the 2x4 will almost put itself out while the particle board goes up in flames, adding things are now being built with cheaper materials, plastics, and a lot of foams, adding heavy fire-loading back in the day was primarily in the living area and the bedroom where there was the foam type material, and everything else was pretty safe, but now, there is plastic, credenzas that are plastic, furniture that is plastic, and everything is being built cheaper and lighter. Mr. McMillan then stated a six-minute response time by the Fire Department was always the golden number to hit because people could get out of the building within six minutes, but now, with the materials in a home used every day, people

have just two or three minutes to get out of their house. Mr. McMillan then stated it is a burden on someone to have to put sprinklers in when they build a new home, but there are justifications to do so.

Mr. McMillan then stated specific codes address their respective segments; then stated the family of codes the Council has adopted include the Building Code, the International Building Code, the ICC Electrical Code, the International Energy Conservation Code, the International Existing Building Code, the International Fire Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, the International Private Sewage Disposal Code, the International Property Maintenance Code, the International Wildland-Urban Interface Code, and the National Electric Code.

Mr. McMillan explained the Codes are built and designed for everyone to use across the United States so one of the things that must be done when a code is adopted, is to amend them for your own conditions. Mr. McMillan shared an example is that in Benson, a soils report is required on any commercial project and any newly built home because the Sulphur Springs Valley is inherent to caliche soil, which is an expandable and collapsible soil, noting that is one of the amendments the Council approved. Mr. McMillan then added that when he goes with Public Works Director Brad Hamilton to Engineering Seminars for continuing education and they tell people they are from Benson, they will get twenty geo-tech business cards waiting for them because everyone knows about Benson soils. Mr. McMillan then stated the International Codes are available for adoption and use by jurisdictions internationally and local adoption is accomplished by Ordinance (Ordinance 588) through the jurisdiction's governing body with provisions covering the appropriate information requiring specific local information.

Mr. McMillan then explained that by state law, the City is required to enforce or verify their regulations are within the appropriate steps when a project is moving forward and these are the: National Fire Protection Association, Americans with Disabilities Act, Arizona Revised Statutes, Arizona Department of Environment Quality, Pima Association of Governments, City Code of the City of Benson, City of Benson Zoning regulations, and City of Benson Development Standards. Mr. McMillan then stated there is a checklist for the Development Standards available because when people want to do a new development, whether commercial, residential, or airport development, they can have a step-by-step checklist walking them through the process so they and Staff both know what is expected, adding Staff relies on these checklists heavily as they are very helpful.

Vice Mayor Konrad asked if there was a checklist or something like that in place for the average homeowner and the reason he is asking is because we live in an age now where Home and Garden television has convinced people to do their own home improvement projects and they go into projects blindly without a lot of knowledge of what they are doing and they often get into trouble downstream. Mr. McMillan stated the Development Services Department encourages a pre-submittal meeting to discuss project concepts and ideas with homeowners, business owners, and developers, because a job never goes smoother than when someone comes in and makes that first contact. Mr. McMillan then stated if someone wants to put in a gas line, wants to build a patio, wants to build a new Burger King, or whatever, Staff tries to encourage a meeting because that way expectations are laid out and what is required, adding there are always questions that come up during that meeting that Staff or even the customer can't necessarily answer at that point, but Staff can begin the dialogue to start looking into it, again stating Staff really encourages people to set up a meeting.

Mayor King stated when someone walks into the Development Services Department, Staff should have information available and be able to sit down and go over it, adding Staff doesn't necessarily tell the customer who to go to and what to do, but should sit down with them and explain "how" to do it. Mayor King then stated the biggest issue he was finding is that someone needs to spend time with the customers so they don't just walk in and walk out, but the information is explained to them page-by-page because this is a really important part of customer service. Mayor King then stated this is the first time he has even heard that Staff encourages a meeting with customers prior to them starting a project. Mr. McMillan replied, stating those meetings are held quite often and agreed Staff can always improve on customer service; however, there is a very fine line to walk as a Code Official because although Staff should guide people in the right direction, the City is not in the design business and cannot tell people how to design something because then the City would be involved in the liability of it. Mr. McMillan stated sometimes they go in somewhat blindly because a business will suddenly open and

the business owner really doesn't know what they are getting into. Mr. McMillan then stated another problem is the checklist they developed for larger scale projects does not necessarily apply to something like tenant improvements, noting Staff should develop a tenant improvement checklist. Mr. McMillan then stated typically, Staff meets with customers, walk the building, and develop the items needing to be addressed, then respond back with an introductory letter outlining what needs to be done.

Mayor King stated he was in retail for 30 years and he knows a lot about customer service, adding instead of giving out a checklist and the customer walking out the door with it, Staff needs to sit down and review the checklist with the customer and tell them that a letter will be forthcoming that will reiterate the requirements. Mayor King stated this will help customers have a better understanding and not be overwhelmed when they leave the Building Department. Mr. McMillan stated that was a great concept, and if Staff doesn't do at least that, then they have done something wrong, but the problem is when a customer leaves, they typically still have questions and Staff still has questions, so Staff must go back and look up codes. Mr. McMillan then stated there are 18 books Staff has to rely on, so while they can usually give the customer an idea of what will be required and something in writing when they leave, at this point the information is going to be somewhat generic in nature. Mr. McMillan explained the problem in giving customers a lot of information up front, is the customer thinks that is all that is required, but it is most likely not everything because of the need for Staff to go back and do the research, get that floor plan in their head, go through the code sections, and at that point develop a comprehensive list. Mr. McMillan then stated this way the list they receive is actually the proper list, so the customer doesn't rely on what they were told when they initially came in.

Mayor King asked about delivering the letter in person and being able to go over everything that is required instead of mailing it, with Mr. McMillan stating that developing a tenant improvement checklist would be helpful because Staff would be able to give the customer something more comprehensive in the first place. Mayor King agreed, stating he was asking for this because he feels this is where a lot of the breakdown in communication happens, adding he would like to see the City deflate the reputation it has now and rebuild its reputation, changing it into a better customer service type of reputation. Mayor King stated he knows it is hard, but he met with quite a few people who weren't too happy, adding customers may not like what they are told, but regardless, when they leave a meeting with Staff, they should still view the meeting as something positive. Mayor King then stated a big problem today is that businesses want to go in, get the job done and get out, and they don't want to spend time on customer service. Mayor King then stated it is all in the delivery with Mr. McMillan agreeing. Mr. McMillan then stated when he writes a correction notice, 99 percent of the time that customer shakes his hand and gives him a smile and a thank you. Mayor King then stated good customer service needs to come from the entire Building Department team, adding when someone walks into the Building Department and they were supposed to have a permit ready in 10 or 14 days, it should not matter if someone on Staff was on vacation, adding the customer is expecting that permit in that timeline, which is another complaint he has gotten from customers. Mayor King stated the only reason he brought up the importance of customer service was because Mr. McMillan brought it up and that is what needs to be fixed. Mr. McMillan stated he totally agrees.

Councilmember Nunn stated it doesn't help that the Planning & Zoning Department is completely understaffed with Mr. McMillan agreeing, stating that is something he and Mr. Hamilton have been discussing for three or four weeks, now, adding the economy is great, construction is increasing, and the City has had considerably more permits this year than last year. Mr. McMillan stated the person for permitting needs to be in the office and he can't rely on Daniel Nagle or Tim Brandenburg because they need to be in the field doing inspections. Mr. McMillan then stated they did actually start hearing complaints that the office was closed a lot, adding Ms. Johnson picked up a lot more work with the Census, plus she has some other irons in the fire, so they are going to sit down and take a strong look at staffing. Mayor King stated again, the City's reputation needs to change based on what he has heard from customers. Mayor King then stated he was concerned, especially if new developments start moving forward, noting there will be a lot more work coming in; then reiterated that he feels customer satisfaction is the most important thing. Mayor King stated this doesn't mean that customers will get everything they want, but they will have the knowledge and will know what needs to be done upfront. Mr. McMillan stated he agreed, and he does have more information to share, based upon what Ms. Vivian and Mr. Hamilton requested, and one of those is explaining the iWorQ process. Mr. McMillan then stated no job is too

big or too small for customers to come in and see Staff. Mr. McMillan explained that he ran into a guy the other day who didn't know who he was, and this person shared that he had to build a patio in Benson, and he didn't look forward to talking to Mike Lockett, who hasn't been at the City in ten years. Mr. McMillan stated Mr. Lockett's customer service skills were not the best and noted things have really developed and changed in the Building Department since Mr. Lockett worked at the City. Mr. McMillan then stated that some of that is driven by scuttlebutt and people then don't want to deal with the Building Department. Mayor King agreed, stating it just takes one thing and it doesn't take much for everyone to know about it.

Mr. McMillan stated Staff also encourages on-site meetings and building walk-throughs for business owners who relocate to Benson, adding they do six or eight of those a year and they seem to be productive. Mr. McMillan also stated Staff has the checklists, building guides, and designer and contractor references, which are all available to the public.

Mr. McMillan then explained that iWorQ is a citizen portal and permitting program that allows people to apply for permits online where they can submit their documents and plans. Mr. McMillan stated because the majority of customers are people who work for a living during the day and may not have the time to come into the department, it has really opened up a lot of avenues for people to be able to submit the information from the comfort of their home. Mr. McMillan stated it has also helped with production and has been especially productive on the customer service side because if someone wants to do a remodel or an addition to their house and they are off working all day and have hired a contractor, they really don't know what is going on and this program provides copies of the inspections, an email update immediately when an inspection is done, whether it passed or failed, or anything else such as what may need to happen next and so on. Mr. McMillan stated it really helps people keep track of the project and what has been going on at the time. Mr. McMillan then stated the program has been great although they did notice there were issues with people who do not have internet. Mr. McMillan stated it was a problem in particular with our winter visitors who don't typically have internet, adding to resolve this, Staff put a computer station on the customer side of the counter inside the Building Department so customers can actually come in, get assistance filling it out, and give Staff the documents to scan, which provides full service for them, adding Staff has received a lot of kudos on the addition of this.

Mr. McMillan then explained he met with Ms. Vivian on Friday and she asked for a spreadsheet on the open violations and he was able to generate a full query report out of that program because it does the code enforcement side too, and instead of having to create a spreadsheet and manually enter all of that, he was able to generate that report instantly.

Councilmember Diaz asked Mr. McMillan if he knew how many active applications were in that program right now with Mr. McMillan stating he couldn't provide the active amount because they open and close a lot, but from April to the end of the year, there were about 205 permits issued out of that program.

Mr. McMillan then shared that one of the Building Guides available in the office was for a customer wanting to build a deck, adding the guide offers "fill in the blank" places with the details all there, such as the wood decking and so forth. Mr. McMillan stated this is basically similar to what Vice Mayor Konrad was asking about, noting a customer picks up the guide related to their project, draws up their site plan and then fills in the blanks to what they want to build and turns that in so they don't have to know how to draft anything. Mr. McMillan then stated these guides are available for patios, porches, additions, garages, carports, and another multitude of other things, adding they are published by the International Code Council, the Colorado Chapter, who allows anyone to use them. Mr. McMillan stated these are very helpful for customers because if you ask them for a plan, many people say they can't draw plans, and this guide provides fill in the blank spaces for details. Mr. McMillan stated they also have many people who hand draw their information which is more than acceptable, adding the example he shared showed basically the same information as the fill in the blanks guide, but this person was very ambitious and took the time to draw it all out, doing a great job, and Staff was able to approve it, but noted it basically provided the same information that was asked for in the building guide. Mr. McMillan stated of course, architectural and drafted plans are also submitted, adding one of these examples was a food truck and the applicant wanted to add a seating area. Mr. McMillan explained that in most cities, this applicant would be told that they needed to hire an architect to draw up something, but it is completely unnecessary. Mr. McMillan then

stated not only did the applicant want to add a seating area, but they wanted to run some additional lines of water and sewer to serve the food truck while meeting all code requirements. Mr. McMillan stated a hand-drawn version was submitted and drawn by the gentleman's father-in-law and he basically demonstrated everything needed to meet code and that plan was approved. Mr. McMillan then stated Staff really wants to work with people, adding this isn't the big City, it's Benson and he respects that, adding to him, the drawing for the food truck was acceptable and he could take the submittal to court any day and testify on it, as it showed everything that was needed.

Mr. McMillan stated the process is that application construction documents are submitted and are routed to the permit technician, and from there they get broken down into sections, adding he does the building section and any fire related codes for Fire Chief Spangler, any civil work is done by Mr. Hamilton, and Ms. Johnson does the zoning. Mr. McMillan then stated if more comments or information is needed, he produces redlines and a letter goes back to the applicant and then it will go through the process again, but if there aren't any comments, it gets approved and the permit is issued. Mr. McMillan then stated it's a simple process and there is a 10-day turnaround time; then explained that Staff just met with a large restaurant that is talking about coming here and when they were informed of the turnaround times, she said she about fell over because she said this same job would take six months to a year to get done in Tucson or Pima County. Mr. McMillan stated they take pride in that and they have the staff available as needed to take care of people like that, adding everything is a 10-day turnaround time in Benson, noting even a simple residential addition in Tucson can take up to three months to get through and he finds that unacceptable.

Mr. McMillan then asked if the Council had any questions.

Mayor King asked how long someone must complete construction after having it approved with Mr. McMillan stating they have six months (180 days); however if they are doing the work consecutively and getting inspections on a regular basis, it is extended. Mr. McMillan stated the timeline is to prevent people who come in, start a job, and then six or eight months pass by and Staff hasn't heard anything. Mr. McMillan stated Staff also works with winter visitors who typically stage projects based upon their visit, and they also work with people that are self-funding the job and because that can be challenging, there may be wiggle room. Mr. McMillan then stated after the construction documents are approved and the permits are issued, inspections are performed on the executed work, adding it's the duty of the permitholder or the responsible party to give them a call when it is ready for inspection, they can call into the automated system and schedule it, they can schedule it on iWorQ, or simply leave a voice mail, noting the inspection time is basically the following day. Mr. McMillan then stated if someone calls in by 5 p.m. and they need it the next day, they get it the next day. Mr. McMillan then stated after the Building Official inspects the building or structure and does not find any violations of the provisions of the code or other laws that are enforced by the Department of Building Safety, the Building Official issues the Certificate of Occupancy.

Councilmember Nunn asked about businesses being open or operating and having customers come in without a Certificate of Occupancy with Mr. McMillan stating there are a lot of variables there and that should be a topic tackled at the next worksession, but each business should have a Certificate of Occupancy. Councilmember Nunn stated somehow the City may be at risk because we are letting people go into said business and they don't have that occupancy permit and if something happens, the customer may go after or come back on the City. Mr. McMillan agreed, then stated sometimes places just change names, and there are other factors, but they base information on the Certificate of Occupancy. Mr. McMillan further explained there are businesses that have been in place so long that he wouldn't even know where to start and he would not know when and how it was built, but if it is a new business, it should have a Certificate of Occupancy.

Mr. McMillan stated in conclusion building codes are intended to protect people's safety, health and welfare in and around buildings; the regulations are designed to improve conservation of fuel and power, protect and enhance the environment, and promote sustainable development. Mr. McMillan stated when they are adopted and enforced, building codes prevent loss of life, property loss and lower insurance risk which in turn lowers overall costs for every citizen.

Councilmember Diaz stated there are a lot of connections going on between the City and the builder or those who are doing building improvements and he wonders how it makes the City liable with Mr. McMillan stating he wasn't clear on the question. Councilmember Diaz stated he was asking about Councilmember Nunn's remark that the City could be liable if something happened in the business and it had been approved and asked Mr. McMillan to explain that. Councilmember Nunn then stated she was questioning a business being open and operating that did not have an Occupancy Permit and the potential liability to the City should a customer fall down and get hurt, adding a person could go after the City because we let them open said business without that permit.

Mr. McMillan stated the City would have either gotten a complaint or through our drive around recognized that and most likely that business would be under the notification of violation, with Staff notifying them of the violation.

Councilmember Diaz stated his question was if the City would be liable if a business does not have a Certificate of Occupancy and how that liability would be connected to the City with City Attorney Gary Cohen responding, stating his opinion, without doing the research, is it is possible, but only if the City had noticed someone was doing business without that certificate and the City did not take sufficient action in a reasonable time. Mayor King asked why a Certificate of Occupancy wouldn't have been issued with Mr. McMillan stating it does happen, adding sometimes people just open a business without it, and some people operate on the "it's better to ask for forgiveness than permission" premise. Councilmember Nunn asked if it wouldn't then be our job to go and shut them down and tell them to lock the doors with Mr. McMillan stating it would be and then the violation process would begin. Councilmember Nunn then asked if there was a possibility they could still be open with Mr. McMillan stating it would depend, adding there are a lot of variables which makes it hard to ascertain, but he believes there would have to be proof of negligence on the City's part in order for the City to be liable, but it would definitely be an issue if the City let them go on and on and never did anything about it.

Councilmember Dempster stated in the last three months he had three local contractors tell him they were not going to do business in Benson anymore; they were not going to pull a permit in Benson. Councilmember Dempster then stated one contractor was working for him this afternoon and when Councilmember Dempster asked him how his business was, the contractor told him it was great, and he had much more work than he could, so he had decided not to do business in Benson any longer because the permit process is so difficult. Councilmember Dempster then stated another pretty big builder here told him Benson had to do something about their permit process because they don't want to pull a permit in Benson anymore; then stated another contractor Councilmember Dempster had known most of his life said he was done with doing work in Benson. Councilmember Dempster then stated he told that contractor that the Council was working on that tonight at a worksession and the contractor's response was to ask if he could schedule something directly with Mr. McMillan. Mr. McMillan stated he has a good working relationship with pretty much every local contractor, and he would like to step aside and talk about that and reach out to this contractor.

Councilmember Dumpster stated another concern was that when he asked them why they hadn't gone and talked to someone in the Building Department or that he could help facilitate a meeting with the people that need to know this, they said they didn't want to because they would be penalized and would never get a permit. Mr. McMillan stated Staff would not do that, adding there is not "front of the line or back of the line" based on anyone's complaints, adding that would be unacceptable, and he would welcome a meeting to resolve the issue with that contractor.

Councilmember Diaz stated he had heard the same things from contractors he had spoken to with Mr. McMillan stating he would like to reach out and get this handled.

Mayor King suggested that once we got through these permitting worksessions, maybe the Council could invite some of these businesses who are having issues to come and meet with Mr. McMillan and City Manager Vicki Vivian, and perhaps a few Councilmembers. Mr. McMillan stated he had been in another City with these same issues and what they did to solve the problems was to sit down and let everyone talk. Mr. McMillan explained he was new to that department and he had been brought in to fix the problems and he found it to be eye opening,

but they were able to change things around by talking about it. Councilmember Dempster stated he would give one specific example on the contractors he spoke with, adding one contractor stated Staff charged him double on a permit and when he called them on it, Staff said they would correct it, and it has been months with no resolution. Mr. McMillan stated that was a clerical error on Staff's part and it is in the process of being resolved.

Vice Mayor Konrad asked what the expectations are if a citizen comes up with a complaint regarding the Building Department and who is the go-to person or who does Mr. McMillan suggest that any of the Council go to directly to address these problems with Mr. McMillan stating they should probably go to the City Manager, especially for Council direct contact. Mr. McMillan then stated if it is the customer who wants a meeting to discuss a complaint, they can come directly to the Building Department Staff. Mr. McMillan then stated on a recent coffee shop job there were some real issues about the requirement of paving and he and Chief Spangler sat down and discussed it with the business owner and were able to help her out by giving her a year to complete that portion because it was destroying her budget, noting she was able to do gravel and other things that were required. Mr. McMillan then stated her frustration she expressed about that requirement when they all first sat down was really eye opening and of course, when the meeting was over, it was all worked out.

Mayor King stated he felt a lot of issues are that way with Mr. McMillan agreeing, stating many customers take their complaints to Councilmembers or other people in the town, but not to the Building Department, and sometimes he will hear about problems second- and third-hand while he is out and about.

Vice Mayor Konrad stated within the last few days he heard a story from two different people, with two different points of view, and the story was drastically different between the two of them, and neither of those people were the party involved. Vice Mayor Konrad then stated his answer to them was to ask what they wanted him to do to fix the problem since he was not even getting first-hand information. Mr. McMillan then stated when he leaves a meeting with a customer, there is resolution.

Mayor King stated when he receives comments, he typically takes them to the City Manager Vicki Vivian, adding there are some things he cannot resolve, and when it starts piling up for the Council, the frustration sets in and of course that frustration gets to Ms. Vivian as well. Mayor King then stated he believes there is a way to fix this, and perhaps it can be discussed further at the next worksession, but the suggestion to bring people with complaints relating to the Building Department in to meet and talk with Mr. McMillan and Ms. Vivian is a good idea, adding the Council does not need to be there. Mayor King then stated the biggest thing for Council is that they want to hear it has been resolved and that the permit process is a lot easier, adding they want to hear that things are getting done and not being delayed because someone went on vacation. Mayor King then stated the more that can get accomplished through the customer service process, the more it will help, adding there are ways to reclaim the City's reputation when it comes to building and bringing in new businesses. Mayor King then stated it is important to start working on that as soon as we can and bring it to where the Council hears more positive comments than negative ones and they get the word out that things are changing in this town, especially with more development right on the edge. Mr. McMillan agreed, stating he definitely believes they need to improve customer service.

ADJOURNMENT:

Vice Mayor Konrad moved to adjourn at 6:58 p.m. Seconded by Councilmember Nunn. Motion passed 7-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk