

**THE WORKSESSION
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD OCTOBER 14, 2013 AT 6:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

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

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Al Sacco, Councilmembers Patrick Boyle, Ron Brooks, Jeff Cook and Chris Moncada (arriving at 6:14 p.m.). Absent was: Councilmember Peter Wangsness.

NEW BUSINESS:

1. Discussion and possible direction to Staff regarding City Council Policies and Procedures, City Code as it relates to City Council

City Clerk Vicki Vivian stated the Council is reviewing the Policies and Procedures and is making comments, which she will integrate for Council's approval when their review of the document is complete. Ms. Vivian then stated the Council left off at the top of page 8 and read Section V – Duties of Council beginning with A – Establish and Maintain the Strategic Plan for the City. Ms. Vivian then stated the City Council does have a strategic plan that was originally formulated in 2006, adding it is updated each year at the Council Retreat. Ms. Vivian then stated the strategic plan declares the Council's objectives for the overall City and for each department and includes goals for each department, which gives Department Heads direction to realize the Council's objectives. Ms. Vivian then stated normally the first part of the retreat consists of each Department Head addressing Council, briefly explaining their department, goals and capital projects with the second part consisting of the Council using that information to review and update the strategic plan. Ms. Vivian then read B – Set Policy through Legislation with no comments from the Council. Ms. Vivian then read C – Financial Oversight, adding the code requires Council approval for any expenditure over \$20,000, but the policy in the budget states Council approval will be sought for anything over \$10,000, adding unusual expenditures under \$10,000 are also brought to Council.

Ms. Vivian then read Section VI – Minutes beginning with Section A – Summary Minutes. Councilmember Brooks stated he would like to have the minutes include not only names, but the addresses of speakers so future Councils will know if the speakers were a City resident or not. Ms. Vivian then read B – Council Minute Approval with Councilmember Brooks asking about State law requiring minutes to be on the City's website. Ms. Vivian stated the law requires action minutes to be posted online within 24 hours after the Council or any public body appointed by the Council meets, adding the action minutes must show any action taken during the meeting. Ms. Vivian then stated minutes for Council approval are very time consuming and often quite lengthy, adding once the Council or other public body approves their minutes, they must be posted on the City's website within 72 hours of the approval. Council discussion then centered on available software to convert audio recordings to text with Ms. Vivian stating she could check on what is available, however, with limited resources, more cities are in favor of summary minutes. Councilmember Brooks stated Boards and Commissions need to keep up with the requirements for their meetings with Ms. Vivian stating her office follows up with the volunteers for the documents needed for website postings. Ms. Vivian then read C – Recordings of Meetings with Council discussing a longer, if not permanent retention of the audio recordings. Ms. Vivian stated the State requires the destruction of audio recordings 3 months after the minutes are approved, adding if the Council would like to change the retention period, she would have to apply for permission from the State. Councilmember Brooks stated he didn't see any reason to destroy them, adding it is sometimes useful to go back and listen to them if there would be a question in the minutes. City Attorney Mike Massee then stated the reason audio recordings

have a relatively short life is that once the written minutes are approved by the Council, they are the official minutes regardless of the audio. Vice Mayor Sacco stated the audio could just be given to the Councilmembers with Ms. Vivian stating the audio for each Council meeting is emailed to the Council for their own purposes. Councilmember Brooks stated the audio could be retained on the City's hard drive in case anyone ever wanted them with Ms. Vivian stating the City can apply for the permission to do that, but noted the records for the City are actually State records and the State doesn't want any records retained longer than they have designated. Councilmember Brooks stated he would like to leave this issue and revisit it later.

Ms. Vivian then read Section VII – Rules of Conduct beginning with A – Addressing Members of Public and Staff. Mr. Masee addressed the Council stating his observations have included tense exchanges between Councilmembers or between Council and Staff or Council and members of the public. Mr. Masee then stated he disagrees with Mr. Figueora's advice that the parliamentary role is to call people out of order, adding everywhere he checked on this issue, the Chairman is the person who runs the meeting and is the person who has the gavel and can call someone out of order. Mr. Masee then stated his recommendation is for the Mayor to remind Council that their comments are to be directed to the Chair and if there is a side conversation that gets heated, that's when the Chair should gavel it and ask them to please address their comments to the Chair. Mr. Masee then stated when a Councilmember is talking directly to the Mayor, they are going to be polite, adding it's when they talk amongst themselves that things can get heated. Mr. Masee stated if the Council should choose to ask a question of Staff, it should also be done through the Chair, who can then address the Staff member, adding it is a polite rule to maintain professionalism. Mr. Masee then stated the way this section is written is to maintain decorum and a sense of stability. Councilmember Brooks stated should the Council like to question Staff and have to ask the Mayor, who then has to repeat the question to Staff, he thinks it would be a difficult way to communicate, adding Council and Staff should be respectful and use titles and surnames and if the Mayor found any comments inappropriate, he could then call on the Councilmember to direct his comments to the Mayor. Mr. Masee stated he has observed some questions and comments that have been more like hostile cross-examinations. Councilmember Moncada stated he thinks if that becomes the case, the Mayor can step in, adding he can see Councilmember Brooks' point in requiring the Mayor to repeat questions, which would be cumbersome, but he also understands that questions can sometimes be hostile. Councilmember Brooks then stated if the Mayor feels the comments or questions are not appropriate, he could call for a point of order and ask that the questions be directed through the Mayor. Mayor King stated he is learning, just like everyone else and while it is hard to get people to stop sometimes, he will continue to try. Councilmember Brooks then stated a call for a point or order will usually stop the conversation and then the Mayor can request comments or statements go through him, adding he thinks that would be appropriate. Mr. Masee stated a point of order is usually something another Councilmember throws out on the floor to get the Mayor's attention about something not being done right and it's not really for the Mayor to call for a point of order. Councilmember Brooks agreed, but stated he felt it would be good if the Mayor could call order to a conversation and then ask the Councilmembers to direct their comments to the Chair. Councilmember Brooks then stated he thinks it's good for the Council to be able to ask Department Heads questions, adding Council meetings are more of a family-friendly type of meeting and trying to duplicate comments through the Mayor would just make the Mayor's position more difficult. Mr. Masee then stated he would disagree, adding Council meetings are not a family-friendly atmosphere and by far, this City Council is the most uncivil Council he has participated with. Mr. Masee then stated he thinks there are problems here and he thinks this rule is designed to correct some of those problems. Councilmember Brooks then stated many times, Council has thanked Department Heads at meetings and he doesn't want to have to turn to the Mayor and ask him to thank the Department Head or Staff member for the job they've done. Councilmember Brooks then stated Councilmembers have always spoken with Department Heads, but agreed the procedure needs to be written in a way that puts the Mayor or Acting Mayor in control of the discussion, and that if anything becomes uncivil, that's where the Mayor needs to stop the conversation and have the comments directed through him. Councilmember Brooks then stated the State law regarding the Call to the Public requires the public to direct comments through the Chair, adding replies are also to be directed through the Chair, and he thinks that part should be kept, but as far as talking to Department Heads, he feels the Council needs to be able to ask them questions at meetings, again noting it will make it more difficult for the Mayor to have to reiterate everything a Councilmember asks. Mr. Masee then stated the written rule

says the way it will be done in general and he believes it fits what Councilmember Brooks is talking about, adding a Councilmember could simply request from the Mayor to be able to direct his comments to Staff and the Mayor could let the Councilmember proceed professionally and politely as appropriate for the circumstances, but if it becomes a heated exchange between Councilmembers and/or Staff, the Mayor could then call for order and for the comments to be directed through him. Councilmember Cook stated he thinks this proposed rule is probably the easiest single sentence in the entire document, adding there have been countless boards, commissions, committees, state legislatures and Councils that have had to deal with this exact thing and all it is saying is when a Councilmember would like to be recognized, they request to do so through the Mayor, adding an example would be for a Councilmember to tell the Mayor he would like to ask Staff a question or for more information and get the permission to do so from the Mayor and that the Councilmember needs to keep civility and order. Councilmember Cook then stated he thinks the proposed rule needs to be left as it is and the Council doesn't need to change the wording so that it means something else, but instead needed to change their understanding of what it is saying and how to accomplish it. Councilmember Brooks then stated the rule could maybe be more specific with Councilmember Cook stating it could be amended to include when a Councilmember begins his address, he starts with the Mayor, stating, "Mr. Mayor, I wish to..." which would accomplish going through the Mayor. Mayor King then stated he could then tell the Councilmember to go ahead with his comments. Council then agreed this section should be amended to include Councilmembers being recognized by the Mayor before they comment and address Staff. Ms. Vivian then read B – Council Deliberation and Order of Speakers with no comments from the Council.

Ms. Vivian then read Section VIII – Motions beginning with A – Procedure for Motion, adding Roberts Rules of Order require a motion and second before Council can discuss an issue, however a few years back, then-Mayor Mark Fenn preferred to have discussion before a motion, citing many times someone would make a motion or second a motion and then after the discussion, they would vote against their own motion. Ms. Vivian then stated in discussing this with a previous City Attorney, the Council was told it was up to the Chair of the meeting and if he would like to open the item for discussion first, he could. Ms. Vivian then stated this is the practice Council now follows. Council all agreed they like the process in place, which gives the Council the opportunity to have a discussion before any motion is made, as well as after, before the Mayor calls for a vote. Ms. Vivian then read B – Motion Amendments with Council discussion focusing on the process of amending motions and voting on motions, with the last amendment being voted on first and working back to the original motion if the amended motions fail. Discussion was also had on multiple motions with Mr. Massee stating unless a motion is an amendment to the underlying motion, a second motion would be improper while Council is considering the first motion. Mayor King stated when a Councilmember would like to amend a motion, he usually asks the person who made the original motion if they would like to amend their own motion. Ms. Vivian stated the Councilmember is welcome to amend their own motion if they agree to the amendment, but if they don't, they wouldn't have to. Ms. Vivian then stated if that is the case, another Councilmember could amend the motion and if the amendment received a second, the amended motion would be up for a vote, noting if the amended motion failed, the original motion would still be up for a vote. Mr. Massee then stated the Council can always clarify the motion on the floor, if needed. Ms. Vivian then read C – Motion to Table. Mr. Massee addressed the Council stating he would like to remind them that tabling an item does not prevent the item from coming back to the Council in the future. Mr. Massee then stated the current procedure for putting items on the agenda is for the Mayor or 2 Councilmembers to request placement of an item on the agenda, adding the fact that the item may have been tabled previously does not prevent that from happening. Mr. Massee then stated what tabling an item really means, in a sense, is that there is a bit of an exception to Open Meeting Laws, for example, if the Council tables an item to a specific Council meeting, technically, it would not have to be listed on the agenda for that meeting. Mr. Massee then stated not listing the previously tabled item on the new agenda is uniformly perceived as bad practice and is not done in Benson, adding if Council tables an item to a certain date, Staff will put the item on the agenda for that date, which is by far, the better practice. Councilmember Brooks stated there are times the Council wants to table an issue and doesn't know when it will be brought back with Ms. Vivian stating in certain cases, the Council could give a timeframe, such as when a study is completed or after a season or could even simply table the item "until a future Council meeting," adding the City Manager could then work with the Council to determine the best time to bring the issue back to them for action. Ms. Vivian then stated when she listens to the Council meeting audio to

prepare the minutes; she takes note of items that are to be brought back to Council and sets the subject up in the weekly Staff meetings to insure it is done. Mr. Massee then reiterated that tabling a matter does not prevent it from coming back on an agenda through the normal agenda process, adding it is not the practice in Benson to take something off the table because when it will be addressed again, it is listed on the agenda, which again, is the better practice. Councilmember Cook stated he felt there were some divergent opinions on this and he thought it would be helpful to have the normal practice Mr. Massee was referring to written in this section.

ADJOURNMENT:

Councilmember Brooks moved to adjourn at 6:48 p.m. Seconded by Councilmember Boyle. Motion passed 6-0.

ATTEST:

Toney D. King, Sr., Mayor

Vicki L. Vivian, CMC, City Clerk