

**THE WORKSESSION
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD OCTOBER 23, 2017 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 6:05 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, Levi Garner and Lori McGoffin. Absent was: Councilmember David Lambert.

NEW BUSINESS:

1. **Discussion about City building, electric and/or fire codes, and the possible need to update or modify those**

Public Works Director Brad Hamilton introduced Michael McMillan, the City's contracted certified Building Official with Brown and Associates, stating Mr. McMillan would be giving a brief presentation on code updates. Mayor King stated the Council could ask questions with Mr. McMillan stating he would like to address questions after the presentation, adding the presentation may answer some of the questions Council may have.

Mr. McMillan stated he has over 20 years of experience in the construction/building safety industry and is a certified Building Official, Plans Examiner and Inspector, as well as the Interim Building Official for the City, adding he is available on an as-needed basis. Mr. McMillan stated he has provided service to the City since 2007, noting he loved Benson so much, he moved here 10 years ago, adding his children graduated in Benson, they work here and his son volunteers for Fire Department, noting his family is very involved in the community. Mr. McMillan then stated the company he works for is Brown and Associates, a leading provider of a diversified team of certified professionals providing many different building and life safety code consulting, review and assessment services throughout the southwest.

Mr. McMillan then spoke about the history of codes, stating in early 20th century, the system of building regulations in the US were based on model building codes developed by three model code groups: the Building Official Code Administration in the northeast, the Southern Building Congressional International, handling the southwest and the International Conference of Building Officials handling the mid-west and the west. Mr. McMillan stated this was quite a problem if you were a contractor or a homeowner and owned or worked in different areas, adding it was hard to keep up with which code was in place. Mr. McMillan then stated the City of Benson adopted the first building code in 1947 and in 1979 adopted the uniform codes, adding the City has adopted those codes up to 2006 edition. Mr. McMillan then stated to simplify the code compliance process, the 3 organizations combined efforts in 1994 to develop a national code, noting there was an advantage to do that, but the codes are very generic in nature, so individual Councils adopt and amend the codes to meet whatever the regional needs are; then noted examples include earthquakes in California, winds in Florida and bad soils in Benson. Mr. McMillan stated the 3 combined organizations became the International Code Council (ICC) and the first published ICC model code was the 2000 edition, with updates being made every 3 years, adding the updates are primarily related to incidents that happen, such as fires, deaths and loss of property, as more is studied and learned about those incidents and how to best mitigate those situations. Mr. McMillan then stated he wanted to make it very clear that these codes are developed, written and published in the US and there is nothing international about them except their name and the fact that the ICC codes are used throughout the world because a lot of professionals write the code which is provided to other countries to use.

Councilmember McGoffin asked if these were the codes the Council looked at before with the public uproar with Mayor King stating these are the codes are different and asked Mr. McMillan to explain why the Council needs to adopt them.

Mr. McMillan then spoke about why the City Council needs to adopt code updates, stating Insurance Services Offices (ISO) are to collect statistical data about loss of life, property and claims and then they actually grade jurisdictions with ISO ratings for both Building Departments and Fire Departments. Mr. McMillan then stated there are two different ISO ratings; the first is a public protection classification that's for the Fire Department and emergency services and the second is a building code effectiveness rating schedule, directly related to the Building Department, which would be on the fire prevention side of things. Mr. McMillan then stated the ISO ratings are comprised of a numerical classification with 1 being the lowest risk and 10 being the highest risk. Mr. McMillan then stated this information is then provided to insurance companies that develop insurance rates based on the rating and the projections of future losses, adding the lower the number, the better insurance rates customers get.

Mr. McMillan then stated the Fire Department public protection classification survey was completed, noting the information observed for the survey were the fire protection systems including emergency communication, operations and training, water supply availability and community reduction of risk programs. Mr. McMillan then stated the current ISO rating for the Fire Department is a 5, which is a good number for a community of this size, and is due to the Fire Department and the Water Department. Mr. McMillan then stated the building code effectiveness rating schedule was determined after an evaluation in 2012, which reviewed the administration of the codes, what codes were in use, what modifications had been made, the zoning provisions, mitigation of natural hazards, building plan review, staffing levels and their qualifications and field inspections. Mr. McMillan then stated the current building code effectiveness classification is a 9 for 1- or 2-family dwellings and a 9 for commercial and industrial property, which is not good, adding the Building Department is actually starting to see people come in who can't get insurance for their buildings, homes or businesses or their insurance rates are doubling or tripling, and they are asking why. Mr. McMillan stated the reason this is happening is that the current adopted codes don't represent the latest edition available and because of reduction in staff, further explaining that there is a more prevalent potential for loss of life and property, because the City is using the 2006 edition of the codes which are clearly outdated for today's times. Mr. McMillan then stated there is also an issue with methods, materials and building equipment, adding technology is moving at an increased rate and the newer codes recognize that technology and add that information which assists in making sure items are properly installed and the right equipment is being used, such as a new air conditioner which uses less electricity. Mr. McMillan then stated there is also safety concerns based on prescriptive and performance-related requirements not being properly represented in the design guidelines, noting from 2006 edition to the 2015 edition, which is the code being proposed, there have been updates in earthquake data, wind data, soils data, adding they have changed considerably due to a lot of advancements not represented in the 2006 edition. Mr. McMillan then stated the solutions are to adopt the most the current edition of the codes, which is the 2015 edition, adding the 2018 edition won't be out until February of next year, and utilizing Staff for proper application and execution of the codes as adopted.

Mr. McMillan then stated the City can also utilize the resources and qualifications of the Brown & Associates team to satisfy ISO requirements and as a support system to the current Staff, adding this gives the City resumes of 20 people to utilize and show ISO they are on board, noting the City only pays for those resources when they are used, but they are glad to represent the City and work with ISO to ensure the classification is lowered, in turn lowering insurance rates and eliminating the denial of coverage, which is what is happening now. Mr. McMillan then stated this is important not only for the rating, but for the community, adding the newer codes may lower the cost of construction by mitigating any specific material being used that is unnecessary. Mr. McMillan then stated everything in the code are minimum requirements.

Councilmember Garner asked what needed to be done in addition to adopting the newer codes to lower the ISO rating with Mr. McMillan stating there are 2 things to address; the adoption of the latest code and staffing availability with training and qualified personnel. Mr. McMillan then stated once the codes are adopted, he will contact ISO and they will come in, reevaluate the department and provide recommendations, adding as long as the City implements those recommendations, they will review and adjust the ISO rating to what it should be. Councilmember Garner asked about that rating with Mr. McMillan stating the previous ISO ratings were a 3 for residential and a 4 for commercial, adding this was prior to January, 2013. Mr. McMillan then stated the previous Building Official, Luis Garcia, attempted to get the code adoption approved, but the political climate at that time, didn't allow it.

Mayor King asked about staffing levels with Mr. McMillan stating no one has notified the ISO that he is filling the position of the Building Official and the Plans Examiner, adding the City has a full-time Building Inspector and City Engineer, which puts the City where it needs to be. Mr. McMillan then stated using Brown and Associates for the positions he fills means little risk to the City as Brown and Associates is fully insured with liability and E&O, adding the City only pays for their services when they are needed and are in lieu of filling staff positions until the time it's decided to fill those positions with full-time employees.

Mayor King asked about adopting the 2018 codes with Mr. McMillan stating ISO works on a 10-year system so as long as a city is 10 years ahead of the last edition, it's good. Mr. McMillan then stated the code updates every 3 years, but most cities adopt code editions every 6 years. Mayor King then asked about the amendments and for Mr. McMillan to review those with Mr. McMillan stating the amendments are pretty much identical to the amendments made when the 2006 code was adopted. Mr. McMillan then stated the code is a baseline code document which is then revised to meet the needs of Benson and this region, adding one example is that there is no penalty clause and because that's a state law, it must be added. Mr. McMillan then stated the code also says that a soils report may or may not have to be provided so another amendment is requiring a soils report because of the soils in Benson, adding again, the majority of the amendments are the same amendments made to 2006 codes. Mayor King asked what the most critical changes were with Mr. McMillan stating additional amendments are some clarification on deferred items and submitting those to the Building Department and dealing with fire sprinklers, adding the new code pretty much requires everything to be sprinklered, but an amendment allows some exceptions for existing buildings as well as buildings that provide shade to people or animals, such as gazebos and parks, adding a lot of types of uses don't really warrant sprinklers. Mr. McMillan then stated sprinklers are now required for residential homes, but there is a state moratorium in place right now because Arizona is trying to recover from the 2009 housing crash, but noted the moratorium will eventually go away. Mr. McMillan then stated sprinklers were originally designed and installed to protect the loss of property, but it has now been found that they save lives, adding the mentality on sprinklers is changing on residential side, but as of right now, they are not required for residential structures due to the state moratorium.

Vice Mayor Konrad asked if this affected new construction only and when it would be in effect with Mr. McMillan stating it would only be for new construction unless an existing building was changing to a more hazardous occupancy such as an office building with only 10 people changing to an assembly such as a bar with 150 people. Mr. McMillan then stated a higher hazard change in occupancy use may require sprinklers be installed or retro-fitted, but they would not be required in every situation, adding sometimes the existing building code allows for other provisions to be used in place of sprinklers as was the case in the VFW. Mr. McMillan then stated the VFW was not sprinklered when they had their large fire and they based on the exception, he might have been able to require sprinklers, but he went into the existing fire code, evaluated the structure and what the true hazards were and what would make the situation better, and it was determined that the VFW could install a full fire detection system and alarm system in lieu of sprinklers, adding this gave the VFW enough points to be able to do that and not have to install sprinklers.

Councilmember Boyle asked how the City was billed for the services by Brown and Associates with Mr. McMillan stating Brown and Associates bills the City hourly for inspections or other Building Official services. Mr. McMillan then stated plan review is billed differently, adding the total project cost is broken down into a permit fee and the plan review is 65% of that. City Attorney Paul Loucks stated the discussion was off topic.

Vice Mayor Konrad then stated some of the terms the Council hears when dealing with building codes are "draconian, restrictive, etc." and asked how the Council could dispel those, adding he knows the codes are in place for a reason and to help mitigate loss of life and for the protection of property. Vice Mayor Konrad then stated on the other hand, there are low-income families with properties not worth a lot, and when they want to fix their property up, they find its cost restrictive, asking if there was anything that could be done to work around that. Mr. McMillan asked for an example with Vice Mayor Konrad stating he was talking about remodeling in general or changing windows and how it was not affordable due to the codes. Mr. McMillan then stated each situation is different, adding the code needs to be applied in a common sense, straightforward manner. Mr. McMillan then stated if windows are going to be replaced, the only thing really affected would be the bedroom egress window, which would have to be brought up to code, but the rest are what they are. Mr. McMillan then stated additionally, one of the only other requirements the code has for remodeling, is that when work is done on a home, it requires updating the smoke detectors, noting if the work is being done in the attic or is accessing the

attic, the code requires hard-wired smoke detectors and if the work is something like replacing windows, batter-operated smoke detectors are permitted. Mr. McMillan then stated unfortunately, the code defines what requires permits and what doesn't, adding page 3 addresses the work exempt from permits. Mr. McMillan then stated when the Council looked at the 2006 code edition, there was a contractor and a developer on the Council and the Council really pressed hard to make sure the amendments were good for the community and the citizens, adding the proposed amendments are really the same document that has been updated.

Mayor King asked about the code adoption coming to Council and if a public hearing was required with Mr. Loucks stating a public hearing was not required.

Mayor King then stated he remembers the situation in considering code updates in the past, but it's time the Council gets the codes up-to-date. Council thanked Mr. McMillan, who asked the Council to contact him if they had any further questions.

ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 6:35 p.m. Seconded by Councilmember Garner. Motion passed 6-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk