

**THE SPECIAL MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD DECEMBER 5, 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 6:06 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, David Lambert and Lori McGoffin.

NEW BUSINESS:

1. **Discussion and possible action regarding an Agreement with a Financial Advisor or Municipal Advisor relating to Potential Municipal Securities Transaction and/or other financial considerations raised by the applications for the potential formation of The Villages at Vigneto, Special Taxing Districts**

City Manager Bill Stephens stated the policy adopted by the Mayor and Council contemplates that an application for the formation of a special taxing district would be reviewed by a financial or municipal advisor. Mr. Stephens then stated the Mayor and Council have two companies before them for consideration as candidates to serve as the City's advisor for reviewing the applications for formation submitted by El Dorado Benson regarding the Villages at Vigneto project. Mr. Stephens then stated both applicants are qualified to serve in the role, and it is now the pleasure of the Mayor and Council to select a financial or municipal advisor to serve in this role. Mr. Stephens then stated the two candidates are: Hilltop Securities, based out of Phoenix, Licensed Securities Brokers Larry Given and Vice President Janelle Gold, adding they have extensive experience in forming special taxing districts and they estimate it will take them approximately 2 weeks or less to complete the review and Ironwood Advisors, based out of Tucson, President Michael Vasquez, a licensed Municipal Advisor, who has experience forming special taxing districts, and will also take 2 weeks or less. Mr. Stephens then stated both are present for Council to ask questions and get information from.

Mayor King asked both candidates to come forward in case the Council has questions. Mayor King then stated he changed the meeting time, adding Staff got the job done and did a good job with two candidates now before the Council.

Vice Mayor Konrad asked Mr. Stephens to give the Council a brief sequence of events on how this transpired over the past few days as far as the interview process with Mr. Stephens stating he was approached by some Councilmembers and they discussed the possibility of having an additional financial advisor for the City to utilize as needed for review of the CFD and RD applications. Mr. Stephens then stated as a result, through discussion with City Attorney Paul Loucks and the City's CFD Counsel Ken Gukenberger, they searched through Kutak Rock in Phoenix and came up with 3 separate companies that might be interested. Mr. Stephens then stated two of those companies bowed out, noting Hilltop Securities stayed and after an additional search, two more candidates were interested, one of which was Ironwood and one in Colorado, who later bowed out. Mr. Stephens then stated this left Ironwood and Hilltop Securities for Council to discuss and possibly consider the hiring of one or the other for use with regard to the CFD and RD formations.

Mayor King asked for the costs of each proposal with Mr. Loucks stating as he understands the proposals, Hilltop's pricing is \$5,000 per application, then stated the City has 2 applications, so the cost would be \$10,000. Mr. Loucks then stated Ironwood's fees are broken down into fees for hours of value added services, with an hourly range of \$100-\$250 depending on the level of services required, adding in the written statement from Ironwood, Mr. Vasquez expects the cost to be \$15,000-\$25,000.

Mayor King then asked Council for their questions or comments.

Councilmember Boyle asked if the scope of work was the same in both proposals and expressed concern over the discrepancy in costs resulting in the same work being done with Mr. Loucks stating there was the possibility of hard costs in both proposals, adding the actual cost may be a little more. Mr. Loucks then stated he was not sure what those hard costs would be, but noted those costs could be added to each proposal, although those shouldn't be very much.

Councilmember Lambert stated he spent time this weekend and has been in communication with Mr. Loucks to get the information ahead of time, adding the Council had not received anything about who they were going to be interviewing. Councilmember Lambert then stated Mr. Loucks sent him information on the candidates and Councilmember Lambert was able to do some research, adding his is happy with both, but is leaning toward one, but he has no questions at this time.

Vice Mayor Konrad asked about SEC filings and said he didn't see anything on the application or agreement, adding as far as some of the research he has done, he is interested in those kinds of things and how they were resolved. Mr. Vasquez stated Ironwood has had none. Vice Mayor Konrad asked Mr. Vasquez what his experience was as far as dealing with those kinds of things, adding if Ironwood has had no filings, they probably have no experience resolving them. Mr. Vasquez then stated municipal advisors have just recently been developed, so the licensing for municipal advisors has also just recently been formed, adding examinations are just beginning to happen so many municipal advisors just haven't had a chance because it's new area. Vice Mayor Konrad stated it wasn't a bad thing to not have any filings; he was just looking at experience.

Councilmember Garner stated he had no questions at this time.

Councilmember McGoffin stated the Council has 2 applications, then asked if the City didn't have a financial advisor on retainer and if Mr. Mark Reader is one the City can use or if it's just down to the two before Council with Mr. Stephens stating the City already has a contract with Mr. Reader and Stifel, Nicolaus on file, adding that contract is not up for action tonight. Mr. Stephens then stated Mr. Reader is on contract should the City choose to use him. Councilmember McGoffin then stated the City could choose to stick with that or choose one of these two with Mr. Stephens stating she was correct. Mr. Stephens then stated the example he used when he spoke with Mayor King was that of the six engineering firms the City has on-call. Mr. Stephens then stated when the City was going over the CMP (Community Master Plan) and the Development Agreement as well as some other issues, the City had those six engineering firms to choose from, adding the firms are only paid when they are utilized. Mr. Stephens then stated having more financial advisers on contract is not necessarily good or bad; it's just a process by which the Council has choices.

Councilmember Dempster stated he understands a financial advisors are optional in the statutes, adding he's not saying the City shouldn't have a financial advisor and he thinks it's prudent the City does, but expressed concern over the reports being done in a manner that would fit into the proposed timeline for this project and asked Mr. Loucks if the candidates offered a timeline for completing their review.

Mr. Loucks stated the Council is talking about the possible review of the applications to form districts, adding there is not a requirement in statute to have a financial advisor or a municipal advisor to review those applications and he's not even sure one is required down the road when bonds go to issuance. Mr. Loucks then stated his recollection is the statutes are silent on that issue, so it is more of an issue of prudent practices of the City in each step it takes along the way. Mr. Loucks then stated as far as timeline, both said they could work with the timeline.

Councilmember Dempster then stated the City is under no obligation to take the results, adding the report would just be additional information to use with Mr. Loucks stating that was absolutely correct. Mr. Loucks then stated one of the contracts expressly states that.

Mayor King then asked the candidates to explain their review and what they would be looking for.

Janelle Gold of Hilltop Securities stated they would make sure they understand the direction from Council and the concerns the Council has, adding their firm has done 17 of these districts in the last 2 years, adding Mr. Givens has been working on these for 35 years and she has been working on these for 10 years, noting they have worked on over \$100 million in special districts in the last 2 years. Ms. Gold then stated they are very aware of issues, as they have been in on the inception and creation of these districts. Ms. Gold then stated while there are some issues unique to communities, such as land use, master plans and each developer, there are a lot of commonalities, adding her firm is aware of these and know what to look for just from the experience of doing other districts.

Mr. Vasquez of Ironwood Advisors stated he generally agrees with the work product Ms. Gold mentioned, but he would take it a little farther to make sure all aspects are covered, not only prior to the districts' formation, but also what to look for after, like a road map for the future.

Councilmember McGoffin stated one of her biggest concerns is the bonds getting issued and then for some reason, things not selling, adding she wants to make sure the City isn't on the hook if lawsuits come up. Councilmember McGoffin stated she is looking for some indemnification and the property owner covering those lawsuits so the City wouldn't be liable, adding she wants to make sure our citizens here don't have to eat the costs of development and that they are not responsible. Councilmember McGoffin then stated again, she didn't want the City to have to pay for defense or development.

Mr. Larry Givens of Hilltop Securities stated their firm is located in Phoenix, and as Ms. Gold indicated, they have a good deal of experience, adding this is specialized work. Mr. Givens then stated there are a number of ways to accomplish things and one of the big questions with many districts is what happens if anything goes wrong and the developers and/or the LLC goes away, adding he has seen it happen and it can happen. Mr. Givens then stated everyone gets sued and the City Council will be no different, but there are some ways to mediate the risk, adding he could go over those in great detail, but he would rather do it in the report. Mr. Givens then stated he did meet with the City Manager and the City Attorney and went over things that can go wrong, noting again that there are some ways to deal with it, but the Council has to be aware that even in RDs, the Council knows who the bondholders are going to come after; it will be whoever is left with money. Mr. Givens then stated, again, there are good ways to lessen that kind of a risk and he will put those in the report. Mr. Givens then stated that is why Ms. Gold said they would want to find out what specifically the Council's mission is, whether it be to stay involved or to just form them and let them run, which he doesn't recommend, but can be done legally, noting even so, the onus will be on the City. Mr. Givens then stated all of that is part of the review, adding the report will contain some of those things they would suggest the City do, especially in the early stages of development, where, typically, things are obviously the most risky. Mr. Givens then stated his firm would have recommendations on those, adding he knows this was vague, but he didn't want to give Council a dissertation tonight.

Mr. Vasquez of Ironwood Advisors stated Mr. Givens went into more detail than he did, but in the end, they were saying the same thing. Mr. Vasquez then stated his comments were concern not only with formation, but what to look for in the future, adding he would recommending making sure the metrics of the special districts are conservative in trying to the protect the City, and that there be controls in place.

Vice Mayor Konrad stated the Council talked about a timeline and wanted to make sure it was clear it applied to the RDs with Mr. Loucks stating the timeline actually refers to both the RD and CFD applications, adding he believes the notice has already gone to the newspaper for the public hearing that will be held on December 28. Vice Mayor Konrad asked if the public hearing would be for both the RDs and CFDs with Mr. Loucks stating the Council already held a public hearing on the RDs, so the upcoming public hearing would be on the CFDs, adding the contemplation would be the Council's consideration of the intent to form, and formation-type issues, depending on the pleasure of the Council and how far they want to go and what steps they want to take, adding at that point, all the requirements will be met, so the Council can go forward.

Vice Mayor Konrad then stated if the Council chooses a candidate and the review takes 2 weeks, it will leave the Council 1 week to review the reports before they are presented to the public; then stated he would like any questions from the public for that public hearing as soon as possible.

Councilmember Boyle stated the City already has Mark Reader on contract and if Mr. Loucks had an idea of the costs for his review with Mr. Loucks stating he did not go back to Mr. Reader for that costs, but since Mr. Reader's hourly rates are comparable to Mr. Vasquez's, it would be approximately the same cost. Mr. Loucks then stated he could not answer how long it would take Mr. Reader to complete a review.

Councilmember Dempster stated everyone is talking about all the things that can go wrong and how to mitigate those risks, but he would like the reports to include all the things that can go right, including the odds and how the City can make the project successful. Councilmember Dempster asked if the reports could include this with both candidates stating their reports could.

Councilmember Garner then moved to approve the proposal submitted by Hilltop Securities for the financial review of the RDs. Seconded by Councilmember McGoffin. Mr. Loucks stated he would like to clarify that the contemplated contract would be for the review of applications both for the RDs and CFDs, adding it's viewed as essentially a review of the same information, adding it might not be exactly, but it is certainly overlapping, adding the contract is clear, but he does want everyone to be aware the contracts are for both.

Councilmember Lambert stated when the Council approved contracts with Stifel, Nicolaus, there were several contract and asked why the Council had a blanket contract covering all the districts with Mr. Loucks stating it was left up to each financial or municipal advisor as to their preference, adding at the time Council considered the contracts with Stifel, Nicolaus, it was their preference to have a separate contract for each special district. Mr. Loucks then stated he submitted the same question to Hilltop and Ironwood and these are the contracts they returned, adding he reviewed them and doesn't have a preference one way or the other, as long as the City's protected. Councilmember Lambert stated he wanted to make sure it was done correctly. Councilmember Lambert then asked about approving a contract at this meeting and if that would still allow the Council to send the applications out for other reviews with other financial advisors, adding the City has Mr. Reader on contract also, and again asked if the Council could submit the applications to both who the Council selects at this meeting and to Mr. Reader and then review both reports before they make a decision. Mr. Loucks stated it would be at the pleasure of the Mayor and Council. Councilmember Lambert stated he wasn't trying to spend extra money, but this would allow the Council's hands not to be tied to just one individual.

Councilmember Dempster stated he hasn't hear enough to distinguish the differences and asked about costs with Mr. Loucks stating Hilltop Securities would be approximately \$10,000 and Ironwood Advisors would be from \$15,000-\$25,000. Councilmember Dempster asked Mr. Loucks if he would make a judgment that the candidates were equally qualified or at least qualified with Mr. Loucks stating both are licensed to do the work. Mr. Loucks then stated he wanted to make sure the Council wasn't going into the qualifications based selection like RFPs (Request for Proposals) are done, adding he found them both to be very qualified for the type of opinion the City is trying to get, then added he thinks it's a good idea to get that type of opinion before going into the formation of the districts.

Councilmember Dempster then stated there are 3 points of criteria he would use: the first would be qualification, adding both candidates appear equally qualified; the second would be costs and the third would be the timeframe. Councilmember Dempster then stated the only difference in these would be the cost and even though it's not the City's money, noting El Dorado is paying for it, the cost is the only difference. Mr. Loucks stated Hilltop Securities fee is approximately \$10,000 and Ironwood costs are hourly and projected to be \$15,000-\$25,000.

Vice Mayor Konrad stated the contracts are for 3 years and 5 years, but wanted it to be clear that the contracts can be terminated at any time by either party and even though the City may have a contract, no money is spent unless the City is using the contract services. Vice Mayor Konrad then stated this issue seems to come up from time to time and he doesn't want people to think the City is locked in, adding he appreciates Mr. Stephens' example of using on-call engineering and stated Mr. Stephens did a really good job explaining that.

Mr. Loucks then stated he would also like to note that both contracts say the City can give the firms extra work, just like the on-call engineering contracts.

Motion then passed 6-1 with Councilmember Lambert voting nay.

ADJOURNMENT:

Vice Mayor Konrad moved to adjourn at 6:37 p.m. Seconded by Councilmember McGoffin. Motion passed 6-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk