

**THE SPECIAL MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD FEBRUARY 5, 2018 AT 7:00 P.M.  
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**CALL TO ORDER:**

Mayor King called the meeting to order at 7:03 p.m. with the Pledge of Allegiance.

**ROLL CALL:**

Present were: Mayor King, Vice Mayor Joe Konrad, Councilmembers Pat Boyle, Larry Dempster and David Lambert. Absent was: Councilmember Garner.

Mayor King stated Councilmember Garner could not attend as he was at work.

**NEW BUSINESS:**

1. **Discussion and possible action on the Consent Agenda**

1a. Minutes of the January 22, 2018 Regular Meeting

Vice Mayor Konrad moved to approve the Consent Agenda. Seconded by Councilmember Lambert. Motion passed 5-0.

**EXECUTIVE SESSION:** Executive session pursuant to A.R.S. section 38-431.03(A)(3), Discussion or consultation for legal advice with the attorney or attorneys of the public body regarding the calculation of majority of votes cast in an election for Council seats

**EXECUTIVE SESSION:** Executive session pursuant to A.R.S. section 38-431.03(A)(3), Discussion or consultation for legal advice with the attorney or attorneys of the public body regarding the appointment of a person to fill the vacancy on Council

Councilmember Lambert moved to enter into both executive sessions with the Mayor and Council, the Interim City Manager, the City Attorney, the City Clerk at 7:06 p.m. Motion died for lack of a second.

2. **Discussion and possible action to appoint an individual to fill the Council seat vacated by Councilmember McGoffin**

Interim City Manager Vicki Vivian stated on January 9, 2018, Councilmember Lori McGoffin resigned from the City Council, adding per the City Code, a vacancy must be filled within 30 days. Ms. Vivian then said state law mandates that "The council shall fill a vacancy that may occur by appointment until the next regularly scheduled council election if the vacancy occurs more than thirty days before the nomination petition deadline, otherwise the appointment is for the unexpired term." Ms. Vivian then stated the appointed person will serve until December, 2018 and the 4-year term will then, along with 2 other 4-year terms and the 2-year Mayoral term, will be on the ballot in the August/November, 2018 election cycle. Ms. Vivian then continued, stating the City Clerk's office advertised the vacancy and requested interested parties to complete the application process for possible consideration, adding those applications were attached for the Council to review. Ms. Vivian then stated two of the three applicants were interested in being appointed to the previous vacancy in August, 2017 and were interviewed by Council at that time. Ms. Vivian then stated the applicants were asked to be at the meeting on February 5 to answer any questions the Council may have and were also advised that the City Council may consider another resident for the appointment.

Vice Mayor Konrad moved to appoint Lupe Diaz to the Council vacancy. Seconded by Councilmember Boyle.

Councilmember Lambert stated according to Resolution 32-2016, all the votes cast at the last election were 843 votes for Mayor and 2,354 votes for Council. Councilmember Lambert then stated there were 3 seats on Council, so according to state law, the total number of votes for Council is divided by the number of Council seats, adding that number is 785 and a majority of those votes would have been 392 votes. Councilmember Lambert then stated he wanted to make it known publicly that Michael Jabkowski did, at that time, receive 458 votes, which is almost 60% of the popular vote, but because he was actually the lowest number on the election, he did not get seated. Councilmember Lambert then stated he just wanted to make that known; then stated it is the public's decision on who sits on this Council. Councilmember Lambert then stated he knows this Council has made up its mind on who they're going to vote for, adding he knows Mayor King has gone around town, telling everyone he already made up his mind and was voting for Lupe Diaz. Councilmember Lambert then stated it was a waste of time for him to even talk about this, but he believed that Mr. Jabkowski would be a better candidate for the position. Councilmember Lambert then stated the Council did receive two support letters for Mr. Diaz, adding one was from Mr. George Scott saying the Southeast Arizona Economic Development Group (SAEDG) would recommend Mr. Diaz be appointed. Councilmember Lambert then stated that makes sense because that would give Mr. Scott another vote on the Council; then stated Councilmember Dempster was appointed to the Council by a majority vote and Councilmember Dempster actually worked for Mr. Scott, adding Lupe Diaz works hand in hand with Mr. Scott. Councilmember Lambert then stated Mr. Scott is in the process right now of offering the City \$20,000 for a piece of property the City paid \$130,000 for, adding the letter was given to Council and is public. Councilmember Lambert then stated if Mr. Scott gets one more vote on the Council, it will give him one more vote to get anything he wants in the City. Councilmember Lambert then stated he just wants everyone to understand that the positions on Council are elected by the people. Councilmember Lambert then stated he knows the Council is appointing a person tonight and that the Council has already made up their minds on what they want to do so it's a waste of his time discussing it.

Councilmember Dempster stated some of what Councilmember Lambert said was not accurate, adding he has never worked for George Scott.

Councilmember Lambert countered asking if Councilmember Dempster was saying he wasn't the President of SAEDG, which is an entity owned and done by George Scott. Councilmember Dempster stated Councilmember Lambert added some things; then stated he was the President of the SAEDG and was one of those who started SAEDG, but there was no organizational structure that says he worked for George Scott, adding it was not the way it worked on paper or in practice.

Mayor King stated there was no way he was going to support selling the property Councilmember Lambert mentioned and then stated it was ridiculous for Councilmember Lambert to even bring it up.

Councilmember Lambert then stated he had the offer letter.

Vice Mayor Konrad called for a point of order, stating the discussion was to involve the appointment of a person to fill the Council seat.

Mayor King then asked if there was any other discussion; then called for a vote.

Motion passed 4-1 with Councilmember Lambert voting nay. Mayor King stated Mr. Diaz would be sworn in tomorrow in the City Clerk's office. Ms. Vivian stated Mr. Diaz could come in tomorrow and take his oath and receive the necessary Council publications, adding Mr. Diaz will be seated and will be taking action as part of the Council at the Council meeting on February 12.

**ADJOURNMENT:**

Vice Mayor Konrad moved to adjourn at 7:13 p.m. Seconded by Councilmember Dempster. Motion passed 5-0.

ATTEST:

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Toney D. King, Sr., Mayor

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Vicki L. Vivian, CMC, City Clerk