

**THE WORKSESSION  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD JULY 28, 2014, 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 6:02 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 Pat Boyle, Ron Brooks, Jeff Cook, Chris Moncada and Peter Wangsness.

**NEW BUSINESS:**

**1. Discussion and possible direction to Staff regarding City Council Policies and Procedures, and/or City Code as related to City Council conduct or procedures**

City Clerk Vicki Vivian addressed Council stating they had worked on the Council Policies and Procedures at last worksession and made 3 changes, which have been incorporated into the draft being presented to Council. Ms. Vivian then stated the Council could move forward with their review.

Councilmember Brooks stated the Council had jumped around in their review with Ms. Vivian stating after discussing different Sections, the Council went back to the beginning. Ms. Vivian then stated the changes the Council made were 1) Section I – Council Meeting – Dates, Times, Locations, B – Holidays, to add the word “reschedule” back in; 2) Section I – Council Meeting – Dates, Times, Locations, E – Cancelled Meetings, to add the words “at least” back in; and 3) Section V – Duties of Council, D – City Officers, to list the City officers. Ms. Vivian then stated the Council then went back to the beginning in their review and left off at the top of page 8.

Councilmember Brooks stated he had a few things he would like to review, beginning with Section I – Council Meetings – Dates, Times, Locations, A – Regular Meetings and asked if the Attorney could reference the City Code, noting it would make it easier for the person reading the Policies and Procedures. City Attorney Gary Cohen stated the Council had discussed this issue previously and he intentionally removed specific City Code Section references to avoid a situation he has seen over and over where the code changes and then both documents have to be changed, adding if a City Code Section number were to change and isn't changed in both documents, it creates a problem. Mr. Cohen then stated there are times to be specific and times to be broad, but it would be up to the Council. Councilmember Brooks asked if the prologue could refer to the City Code with Mr. Cohen stating reference to the City Code appears twice in Section I – Council Meeting – Dates, Times, Locations, but Council could direct him to include additional language, with Councilmember Moncada stating he felt it was enough. Councilmember Moncada then stated Councilmembers should know what the City Code is, but if they don't, they could go to the Administration office and ask. There was no further discussion of the prologue.

Councilmember Brooks then stated in Section I – Council Meeting – Dates, Times, Locations, C – Other locations, he would like to add the high school and Cochise College as additional locations the Council could use if they couldn't meet in the City Council chambers. Mayor King stated he had been through emergency training and the Council would probably meet at the Fire Department with Councilmember Brooks stating if a meeting had to be held out of town, the Council would need other locations. Mr. Cohen then stated he would add the Fire Department, Cochise College and the Benson School property as alternate meeting locations, adding he would suggest keeping it somewhat broad, due to not being able to anticipate the Council needing to meet outside the City. Councilmember Brooks noted the meeting location would be

posted on the agenda and asked if Mr. Cohen would have an ordinance regarding meeting locations at the next Council meeting. Mr. Cohen stated once the draft is ready to be presented to Council for adoption, Staff will draft ordinances to ensure consistency between the Policies and Procedures and the City Code, adding the ordinances will be brought to Council for their consideration.

Councilmember Brooks then addressed Section VII – Rules of Conduct, asking if State law required a notice of meetings be posted on social media sites with City Clerk Vicki Vivian stating it did not, but Council could decide to have their agendas on the City's social media site in addition to the required posting places, which are City Hall, the Post Office, the City Library and the City's website. Councilmember Moncada stated he felt the agendas should be on the City's facebook site, adding more and more people use social media. Ms. Vivian stated she currently forwards the City website link for Council meetings agendas to the City's facebook administrator, who posts the link on the City's facebook page.

Mayor King asked if there were other comments with Councilmembers Cook, Moncada and Boyle stating they had none at this point.

Councilmember Brooks then asked where the Council had left off with Ms. Vivian stating at the last worksession, the Council got to Section V – Duties of Council, D – City Officers, adding Council had decided to add specific language listing the City Officers. Councilmember Brooks asked if the organizational chart reflected the officers with Ms. Vivian stating the organizational chart shows what position reports to what position, but does not specify which positions are City Officers.

Councilmember Brooks then asked about summary minutes and action minutes with Ms. Vivian stating the law only requires summary minutes, which is what is currently done, adding when there is an agenda item that is more controversial, she puts more detail into the minutes, but again stated the law only requires summary minutes. Ms. Vivian then stated action minutes are different and only show what action the Council took at Council meetings, adding action minutes are posted on the City's website the day after the Council meeting. Vice Mayor Sacco asked if the federal government would be involved anytime with Mr. Cohen stating they would not. Councilmember Brooks stated the State law requires minutes to be posted within a certain time with Mr. Cohen indicating that was correct. Councilmember Boyle asked if the minutes were transcribed with Ms. Vivian stating they were not, adding the minutes approved by Council are summary minutes; however, some agenda items include more detail, depending on the item and the discussion.

Vice Mayor Sacco asked how long the audio recordings of the Council meetings were maintained with Ms. Vivian stating they are maintained and available on the City's website for a year, adding the approved minutes are a permanent record. Councilmember Brooks stating the retention of the approved minutes was not addressed in the Policies and Procedures with Ms. Vivian stating the Council adopted a retention schedule for the City and it is what determines how long records are kept. Ms. Vivian then stated she didn't suggest addressing this in the Council Policies and Procedures as it was part of the City Clerk's duties and not Council's.

Councilmember Brooks asked when a super majority vote is required with Ms. Vivian stating to determine if a super majority vote is required, the State laws on the individual subject being voted on must be researched, adding there is no place in the statutes a person can just look at what items require a super majority vote. Ms. Vivian then stated there are very few issues that require a super majority vote, but she is aware that a major amendment to the General Development Plan, a zoning change that is protested and enacting an emergency clause on Council action all require a higher number of affirmative votes of the Council. Councilmember Moncada stated he thought a new tax created by the Council would also require a higher number of affirmative votes with Ms. Vivian stating the Council has not attempted to create a new tax in the last 15 years, adding Staff would have to research that issue. Ms. Vivian then stated the model tax code the City adopted is updated each year if State legislation amends it, adding when this occurs, the amendments are brought to Council for their consideration, but it does not require a super majority vote.

Vice Mayor Sacco asked if a Councilmember with a conflict of interest on an agenda item was still allowed to stay in the Council chambers while the discussion on that item was happening with Mr. Cohen stating his understanding of the law was that the Councilmember was allowed to remain in the chambers, but they should step off the dais. Councilmember Brooks stated he liked that idea because it lets the public know the Councilmember is not part of the discussion.

Councilmember Boyle then asked about the Council being able to respond to the comments made at the Call to the Public, asking if the Council could not only respond to criticism directed at them but also to general criticism directed at the entire Council, the City or a particular item of business. Councilmember Moncada stated when Councilmember Boyle spoke at the Call to the Public before he was on the Council and was wrong about the Council spending \$17,000 on murals, Councilmember Moncada stated he had responded to Councilmember Boyle with the correct information. Mr. Cohen then stated the statute regarding the Call to the Public reads, “at the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask Staff to review a matter or ask that a matter be put on a future agenda,” adding those are the 3 things the Council can do and hopefully, the language is consistent with the statute. Councilmember Brooks stated Councilmembers can respond, but they have to be careful, because when they do, the person addressing the Council thinks they can discuss the issue and then a conversation ensues and the Council is then having a discussion they can’t have. Ms. Vivian agreed, stating the Council can’t have a discussion about something that is not on the agenda. Mr. Cohen then addressed Councilmember Boyle’s point, stating the proposed language reads, “a Councilmember may also respond to a remark of criticism directed to that Councilmember.” Mr. Cohen then stated his proposed language is narrower than the State law, which reads that a Councilmember can respond to criticism, adding the law doesn’t say the criticism has to be directed at the Councilmember. Mr. Cohen then stated he felt the proposed language should be changed to reflect the exact language in the statute.

Councilmember Brooks then stated he would like the Section XIII – Council Meeting Agenda, F – Call to the Public to include something that says “within the jurisdiction of Council” so people understand if what they want to speak about is not within the Council’s jurisdiction, the Council is not going to hear it, adding a lot of times, people just want a podium to talk from about political stuff the Council can’t do anything about and the Council shouldn’t be allowing that. Mr. Cohen stated while the section Councilmember Brooks was referring to did not make mention of the exact language in the State statute, Section XII – Call to the Public does quote the statute, adding there is also language in Section XIII – Council Meeting Agenda, F – Call to the Public indicating the reader needs to refer to Section XII – Call to the Public. Mr. Cohen then stated the proposed language could be changed if Council wished, but no Councilmember requested a change.

Councilmember Brooks stated he didn’t know if this was the proper place, but he wanted to see if the Council could get updates from the Benson Airport Advisory Committee and the Benson Economic Development Committee once a month, so the Council would be aware of what is going on with both of those committees. Councilmember Brooks stated they may be able to just turn in a report or the City Manager may be able to give updates during his City Manager report to Council. Councilmember Brooks then asked if Mr. Cohen had any thoughts or suggestions with Mr. Cohen stating the question is whether the language could or should be put in requiring or recommending committee reports to the City Council, adding he is hesitant to answer because he thinks it depends on ordinances that have been passed for each committee. Mr. Cohen then stated, as pointed out in past, there are no general committee rules and each committee has its own separate ordinance, adding for example, members of a certain committee can’t be removed without cause. Mr. Cohen then stated he would want to double check and make sure nothing in any of the City Code or ordinances for those committees would suggest they are a separate body and are not to be meddled with or can’t be directed to give reports. Mr. Cohen then stated the requirement may be better in the City Code, adding again, he would want to look into the issue. Councilmember Brooks stated he would just like the Council to have a way of knowing what is going on, adding if there are issues with the airport or with economic development, the Council needs to be aware of that. Mr. Cohen stated he would need to check the ordinances for each committee and contemplate whether that subject is better

placed in the City Code or the Council Policies and Procedures. Councilmember Cook stated if the Council were to do this, they would need to include all the committees, such as the 4th of July committee, the Tree Lighting committee, the Butterfield committee, the Historical Preservation Commission, the Planning & Zoning Commission, the Board of Adjustments and all other committees the City has. Councilmember Cook then stated he felt the Council would be deluged with a lot of information and anything that is important will be lost in the large mass of that information, but stated again, if the Council is going to require 1 or 2 committees to do this, they should require it of all committees, so they are treated the same. Mr. Cohen then stated he understood his task is to look at whether there should be some sort of report from all committees. Councilmember Brooks stated he thought Mr. Cohen should look at the nature of each committee with Mr. Cohen stating he would look at them all individually and then come back with a legal opinion and suggestion and Council can decide whether they think it's wise or not to require reports.

Councilmember Brooks then asked if the Council addressed Special Meetings, with Ms. Vivian stating Section I – Council Meetings – Dates, Times, Locations, F – Special Meetings and Emergency Meetings reads, “Special meetings and emergency meetings of the City Council may be called and held from time to time consistent with City Code and the Arizona Revised Statutes.” Councilmember Brooks then asked about a quorum of the Council deciding to hold a meeting and if they could decide to do so as long as they did not discuss any matters with Mr. Cohen stating he would have to look into the matter. Mr. Cohen then stated the Council could feel free to contact him with any further questions or comments.

Councilmember Brooks asked if the Council was scheduled to approve the draft Policies and Procedures with Ms. Vivian stating they were not being asked to consider approval at this point, but the final draft would be placed on a regular meeting agenda for their consideration in the future.

Mayor King stated everyone had basically made all their comments with Councilmember Brooks asking where the Council left off. Mr. Cohen stated the Council moved around during their review, but they left off at the bottom of page 6, with the request not to change this language but direction for him to look into the propriety of a quorum meeting to decide to hold a special meeting under the City Code, adding he will do so. Ms. Vivian then stated at this point, the Council has completed their review.

**ADJOURNMENT:**

Councilmember Brooks moved to adjourn at 6:40 p.m. Seconded by Councilmember Moncada. Motion passed 7-0.

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Toney D. King, Sr., Mayor

ATTEST:

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Vicki L. Vivian, CMC, City Clerk