

**THE SPECIAL MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD SEPTEMBER 4, 2013, 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 7:01 p.m. with the Pledge of Allegiance.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Al Sacco, Councilmembers Ron Brooks, Jeff Cook, Chris Moncada and Peter Wangsness. Absent was: Councilmember Brian Crafts.

CALL TO THE PUBLIC:

Lucy Moffett stated the Council was gathered tonight in this special session to address a most significant and crucial decision; one that seriously impacts everyone whether they live in the Benson City limits or any of the surrounding areas, which is the selection of the next Benson City Manager. Ms. Moffett stated because it is such a significant decision, one that will hopefully, positively impact everyone for the next year and many thereafter, the Council owes it to everyone to ensure they will be making the right choice in their final decision. Ms. Moffett then stated so far, the Council has only considered one choice, which is really not a choice and she understands some of the Council on the Recommendation Committee were not in agreement to give only one recommendation and she applauded those members for that. Ms. Moffett then stated she had read the resumes of the sole recommendation and of 2 other excellent candidates; Mr. Donald Howard and Mr. Stephen Gunty, adding there may be even more potential choices. Ms. Moffett stated Mr. Pauken made his choice after being offered a contract, by turning it down and walking out of the chambers in front of a number of the public on Saturday, August 31, adding that was a very strange time for a special session, since it was a holiday weekend and there was sure to be very few people in attendance. Ms. Moffett then stated the offer included an annual salary of \$108,000, which is \$8,000 more than the \$100,000 the City Council had previously agreed on for the position, and also included 5 weeks paid vacation, a cap of \$3,000 on his moving expenses and the requirement that he live in the City limits of Benson. Ms. Moffett then stated the Council should not make the mistake again of having someone lead the City who is not subject to their own decisions. Ms. Moffett then stated now is the time for the City Council to really have choices and to do the right thing for the citizens of Benson and the surrounding areas, adding now is the time to table item #1 on tonight's agenda, which reconsiders a contract with Mr. Pauken and move on to item #2, to interview other candidates to be included with Mr. Pauken for their final decision. Ms. Moffett then asked the Council to ensure the public that they are doing the right thing to give the public hope for the future and to provide them with an excellent leader for the team at City Hall.

Aaron Kramm stated he thought after speaking to the Council last week, they would focus more attention on the younger people, but when a meeting was called not only on a Saturday, but on a holiday weekend, it made him wonder. Mr. Kramm then asked the Council if it could be that they didn't want anyone to show up, asking if the meeting would be considered a special meeting or a secret meeting. Mr. Kramm then asked if this was what the Council reduced themselves to and if they would just hire anyone to get the process over with. Mr. Kramm then stated actions like this may be why more people don't attend and support these meetings, adding the public already feels cheated. Mr. Kramm then asked the Council what this says about them, what kind of message they are sending and how the Council expects the public to trust them when their actions are questionable. Mr. Kramm then stated there is no doubt the City needs a City Manager, but the Council shouldn't take the easy way out and hire the first name that's convenient, adding the taxpayers pay the Manager's salary so they expect and deserve more, like someone who actually wants to live in Benson and will care about Benson. Mr. Kramm then stated the next remark was directed to Councilmember Crafts, even though he was not in attendance, stating he included Councilmember Crafts in the statement as well, asking how Councilmember Crafts can truly care about a town that he doesn't

even live in. Mr. Kramm then stated for the amount of money the new City Manager will be making, he would think the Council would look at all the applicants fairly and take the time to choose wisely. Mr. Kramm then stated the Council should be professional and work together, adding name calling amongst themselves won't accomplish anything. Mr. Kramm stated the person Council chooses should be also willing to listen to the people and the Council should choose someone they can picture working for the good and brighter future and who actually has a plan on economic development for Benson. Mr. Kramm then stated he expressed last week how people still talk about his grandpa, saying good things and asked how the Council wanted to be remembered and if they wanted to be remembered as a conspiring Council. Mr. Kramm then stated Interim City Manager Jim Cox had stated he thought Mr. Pauken was an excellent candidate, but Mr. Pauken walked out of the Saturday meeting like a spoiled child who didn't get his way. Mr. Kramm then stated those hiring the City Manager should have integrity and morals when they decide to hire someone, adding the City Manager should have these characteristics as well. Mr. Kramm then stated even Councilmember Brooks, who said Mr. Pauken was the best man for the job thought the Council should have interviewed at least 2 other candidates. Mr. Kramm then stated when he thinks about these actions, it makes him think of people who are very tyrannical, adding the Councilmembers need to quit the political grandstanding and please work together.

Patrick Boyle stated he thought the Council had decided months ago on a salary range and it was going to be more modest and a little bit more frugal. Mr. Boyle then stated considering the financial times we find ourselves in, he understood the Council was going to look for a candidate who met all the qualifications but yet was able to work at a reasonable price. Mr. Boyle then stated he thought the pay package offered to Mr. Pauken was outstanding and probably more than he deserved considering his attitude and the way he acted Saturday night. Mr. Boyle then stated he felt the Council needed to continue looking to see if there isn't someone better to represent the City as the City Manager.

J.T. Moffett addressed Council regarding the City Manager position. Mr. Moffett's comments will be retained with the Council packet.

Councilmember Wangsness stated he would like to make a few corrections, adding he wanted to make sure everyone knew that Councilmember Brooks and he were out-voted on having additional interviews for the position of the City Manager. Councilmember Wangsness then stated it was at that point that he started to support Mr. Pauken completely, adding he still thought Mr. Pauken was a fine man. Councilmember Wangsness then stated Mr. Pauken did not leave because of contract negotiations, but because of the deplorable actions by some of the Councilmembers present at the meeting. Councilmember Wangsness then stated the Bisbee mine tours are still going on and he had recommendations from 3 Bisbee Councilmembers as well as the City Manager from Nogales, adding some Councilmembers in Bisbee told him that Mr. Pauken's actions saved their City several million dollars.

NEW BUSINESS:

1. Discussion and possible action in approving an employment contract with Stephen Pauken for the position of City Manager

Mayor King stated this agenda item was put on by Councilmember Crafts and Councilmember Wangsness. Councilmember Wangsness stated he thought Mr. Pauken deserved a vote after not getting one last time, adding Mr. Pauken did not leave because of the contract. Councilmember Brooks stated he has voiced himself for the last 2 months about the process used to look for a new City Manager and he is very upset with the way this has been carried out. Councilmember Brooks then stated it has taken 4 months to get here and the Council will end up with nothing in the end, adding Council has upset someone that could have possibly been a good City Manager. Councilmember Brooks then stated all he knows is that he didn't have a choice, the people who elected him didn't have a choice and he thinks it was wrong for Council to do that. Councilmember Brooks then proposed the Council go forward as fast as they can with an RFP process and get some men out here, adding there may be some really good people out there right now and Council needs to find them. Mayor King interjected and stated the Council needs to get back to why they

are actually meeting. Councilmember Brooks stated the Council is here to approve or disapprove the contract for Mr. Pauken and he thinks he would just say no and move on from here. Mayor King stated people are saying Mr. Pauken left the meeting on Saturday because Council treated him a certain way, adding his point is that when he was up at the League conference with Mr. Pauken, he treated him very well. Mayor King then stated if the Council doesn't want to do something, they don't have to do it, however, he didn't want to have the meeting on Saturday but there was still a meeting on Saturday. Mayor King then stated he was overridden as the Mayor, which he had never heard of before, but it happens and it is what it is. Mayor King stated he guesses that's the game they have to play, but he is tired of playing games. Mayor King then stated he wants this Council to get down to business because it is not just a City Manager they have to look for; there are other things to look for also. Mayor King then stated he didn't want to get too far off-track and right now the subject is the discussion and possible action approving an employment contract with Stephen Pauken, asking if anyone would like to make a motion.

Councilmember Wangsness moved to approve the contract with Stephen Pauken for the position of City Manager. Seconded by Councilmember Moncada. Motion failed 3-3 with Mayor King, Vice Mayor Sacco and Councilmember Brooks voting nay.

2. **Discussion and possible action regarding selecting of candidates for City Manager**

Mayor King asked if dates had been set up to interview the 2 people that had been discussed. Councilmember Moncada stated his preference is, if Council is not going to go with Mr. Pauken, that the process be started all over again, which he feels is a waste of time and is going to take another 4 months. Councilmember Brooks stated the length of the process depends on how often meetings are held, adding he thinks the people of this town expect Council to do their job and if Council has to meet 3 times a week to do it, that is what has to be done. Councilmember Moncada replied to Councilmember Brooks stating he is ok with additional meetings, but Councilmembers have to show up for the meetings. Councilmember Brooks then stated he would like to see a Skype interview with the other 2 candidates and find out what their minimum pay would be and why they had a lag in their employment. Councilmember Brooks then stated at the same time he would like to see an RFP go out right away for a City Manager without involving the League and for the Council to just use what the League had already given them. Mayor King stated Interim City Manager Jim Cox also put his name in to be considered. City Clerk Vicki Vivian stated, for the record, she would like Council to name the 2 candidates being discussed. Councilmember Brooks stated he was talking about Mr. Gunty and Mr. Howard with Mayor King adding Jim Cox's name. Councilmember Brooks stated Mr. Cox would need to submit an application just like the rest of the applicants. Vice Mayor Sacco stated he thinks Mr. Howard and Mr. Gunty are both qualified to be a City Manager and he doesn't think the Council should go through the same process all over again since they still have applicants to be considered. Councilmember Brooks stated if Council could conduct Skype interviews, they can get their questions answered and their concerns clarified, adding it wouldn't cost anything to do so and they could still move forward with the RFP. Councilmember Brooks then stated the Council needs to get some people in here right away and they know they have 2 candidates they can look at and also have a list to choose from. Councilmember Brooks then proposed setting up meetings maybe twice a week to get the process done. Mayor King responded everyone needs to be at the meetings with Councilmember Brooks stating it is the Councilmember's responsibility to his constituents to show up and if the constituents have a problem with a Councilmember's attendance, they can address it. Vice Mayor Sacco stated the Council already has some qualified candidates and he doesn't believe they need to start this process over again. Vice Mayor Sacco stated if there were no other candidates to consider, he would agree with Councilmember Brooks, but instead thinks Council should just proceed with the 2 candidates being discussed. Councilmember Brooks stated he agreed and as he had already mentioned he doesn't see a problem with Skyping the 2 candidates to get answers, rather than flying them in for interviews, so the Council can find out for sure if they are going to want the same pay as Mr. Pauken. Councilmember Brooks stated he didn't want to fly them here just to find that out, adding there are just a few basic questions Council is interested in and if they fit the parameter then Council can fly them out and talk to them. Councilmember Brooks then stated he doesn't want to wait 2 weeks and then another 2 weeks for the RFP to go out and have this process take forever. Vice Mayor Sacco addressed Councilmember

Brooks, stating Councilmember Brooks was missing the point; the Council has 2 other candidates they can consider and they don't have to go out with another RFP. Vice Mayor Sacco then stated if there were no candidates, he would agree with an RFP, but since there are candidates, the Council ought to carry this thing forward as it has been dragging on long enough and he doesn't want to make a career of this. Councilmember Brooks stated he agreed and he would like to get these guys in right away, possibly within the next 7 days. Mayor King stated the Council will get these meetings started with Councilmember Brooks stating a Skype interview should be able to happen anytime. Mr. Cox stated the interviews would be subject to the availability of the candidates and the Council and he would start working on it right away. Councilmember Wangness stated he would like to add Mr. Holsinger to the Skype interviews. Councilmember Cook then stated he would like to include Jim Cox also, adding Council has an email from Mr. Cox stating what he has done for the City, what he wants to do for the City and under what terms he would continue through April, 2015. Mayor King then stated the Council needs to get started immediately and if they have to hold 2 meetings a week, they will, noting everyone needs to show up and the Council can't keep playing games. Councilmember Cook stated there should be no boycotts directing his comment to Councilmember Brooks with Councilmember Brooks replying that if Councilmember Cook would not wear shorts, he would show up for the meetings. Mayor King called the meeting back to order. Mr. Cox stated he would like to have clarification of the candidates to be contacted and also the availability of Council, adding the meeting needs to be noticed and asked if early next week would be possible with Council indicating they would be available. Mayor King then stated there are 4 people to be interviewed, listing Mr. Gunty, Mr. Howard, Mr. Holsinger and Mr. Cox with Mr. Cox stating that he only put his name in because he feels each of the other candidates have flaws, but if Council were to go back out with an RFP, he would withdraw his name. Councilmember Brooks stated he had a bit of a problem with that because Mr. Cox wasn't involved in the process and for Mr. Cox to inject himself at this point is irregular, adding he doesn't see that Mr. Cox has a City Manager background. Councilmember Cook stated he is the one injecting Mr. Cox into the process, adding for the record Vice Mayor Sacco also shows up in shorts but Councilmember Brooks apparently didn't have a problem with that. Mayor King called the meeting back to order. Councilmember Brooks stated it was a matter of respect with Mayor King again calling the meeting back to order. Mayor King then asked for the 4 names the Council would interview, with Ms. Vivian stating the record shows the interviews will be conducted with Mr. Gunty, Mr. Howard and Mr. Holsinger as well as Mr. Cox. Mayor King then asked for the first names of the candidates with Mr. Cox stating their names are Donald Howard, Stephen Gunty and he believed Mr. Holsinger's first name was Stephen as well. Councilmember Cook then stated he had further comments to make, stating the Council has taken quite a beating on how this process has gone and it makes the Council and the City look bad. Councilmember Cook then stated Mr. Howard has not worked since May, 2012, adding there is an article reporting that Mr. Howard was fired from his last position and then stated Mr. Gunty has not worked since August of 2009. Councilmember Cook then stated those are the things that make this Council and the City look bad. Councilmember Brooks stated what looks bad is when a City Council is trying to do something that is irregular and a City Manager objects to it and the Council fires him over it, adding he doesn't like to judge people before he talks to them. Councilmember Wangness stated the League of Cities went through all of these people and Mr. Gunty did come up on their top 10 list so there must be something not so bad about why he was unemployed for several years. Vice Mayor Sacco then stated it was not the League that was picking candidates, but it was up to the Council. Ms. Vivian asked for clarification that all of Council would be available next week with all Councilmembers indicating they would.

3. **Discussion and possible action to extend Mike Masee as City Attorney pending future Council action**

Mayor King stated this item is to extend the attorney's contract on an at-will basis until the Council can get a new attorney, adding Mr. Masee will be under the same contract he currently has. Interim City Manager Jim Cox stated Mr. Masee would be available strictly on an hourly basis at-will and the agreement could be terminated by either party at any time with no notice, but extending the contract would provide the City with coverage until the Council chose a new City Attorney. Vice Mayor Sacco asked if the City had advertised for a City Attorney with Mr. Cox confirming an ad had been placed. Vice Mayor Sacco asked how many responses were submitted with Mr. Cox stating 7 responses were received,

however, 1 response notified the City that they were rescinding their submission. Mr. Cox then stated he is searching for other firms and has come up with a few more names that are being contacted to see if they would be interested. Mr. Cox stated Council spoke of sending a mass mailing out, but there are 1,124 law firms within a 100-mile radius of the City of Benson and only about 15 of those have any experience in municipal law so he felt that would be a waste of City resources, adding he is currently looking at alternative means to try and identify firms that do have municipal experience that have not yet replied or responded to the RFP. Vice Mayor Sacco stated the City has already tried the one-man operation for a City Attorney and he would recommend looking at a regular law firm. Councilmember Brooks stated another form of advertising is to use some of the attorney review journals that are out, adding he wouldn't mind someone coming out of Tucson. Councilmember Brooks stated he had spoken with Councilmember Wangsness and would like him to speak on what he learned at the League. Councilmember Wangsness stated he didn't want to bring it up because it is not on the agenda to discuss other attorneys, but was only to discuss extending Mr. Massee's contract until further Council action. Mayor King agreed, stating this item is only to discuss extending Mr. Massee's contract with Councilmember Brooks stating it was for the Council to discuss an interim City Attorney. Councilmember Wangsness and Mayor King both disagreed, with Mayor King stating the agenda lists possible action to extend Mike Massee as the City Attorney.

Councilmember Moncada then moved to extend Mike Massee's contract on an at-will basis until Council finds a new attorney. Seconded by Councilmember Wangsness. Motion passed 4-2 with Vice Mayor Sacco and Councilmember Brooks voting nay.

ADJOURNMENT:

Councilmember Moncada moved to adjourn at 6:38. Seconded by Vice Mayor Sacco. Motion passed 6-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk