

MINUTES

MINUTES OF THE SPECIAL SESSION OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, AND STATE OF ARIZONA, HELD ON TUESDAY, MAY 14, 2019 AT 5:30 PM AT THE CITY HALL BUILDING, 915 S. TOVREAVILLE ROAD, BISBEE, ARIZONA.

THE MEETING WAS CALLED TO ORDER BY MAYOR SMITH AT 5:33PM.

ROLL CALL

COUNCIL

Councilmember Gabe Lindstrom, Ward III	Excused
Councilmember Joni Giacomino, Ward II	
Councilmember Bill Higgins, Ward I	
Mayor David M. Smith	
Councilmember Leslie Johns, Ward I	
Councilmember Joan Hansen, Ward II	
Councilmember Anna Cline, Ward III, Mayor Pro Tempore	5:35PM

STAFF

Stephen Pauken, Interim City Manager
Ashlee Coronado, City Clerk
Keri Bagley, Finance Director
VACANT, Personnel Director
Jesus Haro, Public Works Director
Albert Echave, Police Chief
George Castillo, Fire Chief

CITY ATTORNEY

Britt Hanson VIA Phone for Item #1

THE FOLLOWING ITEMS WERE DISCUSSED AND/OR CONSIDERED AT THIS MEETING:

- Donna Pulling, Bisbee resident spoke regarding the penalty and that it was the person being penalized not the City. She thought going forward that the City should record Executive Session Meetings.
1. Discussion and Possible Authorization to sign and return a letter from an Assistant Attorney General finding an Open Meeting Law violation for unauthorized disclosure of Executive Session information and requiring the City to pay a \$500 Fine and the City Council and Staff to attend Open Meeting Law Training.
Britt Hanson, City Attorney

Mr. Hanson stated that he had recommended to not sign the letter to the Assistant Attorney General. He firmly believed that there was no open meeting law violation. The information shared was from text message from Councilwoman Johns to set up an agenda item to terminate the City Manager, not from the Executive Session meeting. He thought that was clear as a bell. He said that he thought that if the Assistant Attorney General took it to court he didn't think they would succeed.

Councilmember Giacomino said that if they go poking around and find the resignation letter on Facebook. How would Mr. Hanson explain that. Mr. Hanson said that he wasn't aware of that.

Councilmember Giacomino stated that the resignation letter went on Facebook shortly after the text message. The person who posted it told her where they had gotten it from, from inside. There was a statement in that resignation letter that was pretty much what was said in Executive Session.

Mr. Hanson said that he wasn't aware that the resignation was posted on Facebook. He was not aware of the date that it was posted, whether it was after the text message or before the text message. He couldn't answer that if Councilmember Giacomino had that then she needs to email that to him. He stated that as far as the text message went it would be a public record if anyone did a public record request that text message would have to be disclosed.

Councilmember Giacomino said that she would like to see that explained especially since it was between two (2) people that were in Executive Session. She stated that the letter was posted February 8th. She would email Mr. Hansen the information.

Mr. Hanson said that the posting of the resignation letter would not have anything to do with open meeting law violation. Whether the information was received by the City Manager from the Executive Session which would not be authorized it would have prompted him to direct the letter.

Councilmember Giacomino said that one of the statements in that was spoken in Executive Session.

Councilmember Giacomino asked if we decide to do nothing and fight and they find us guilty what would happen to us then.

Mr. Hanson said we wouldn't know it would be up to the judge.

Councilmember Giacomino said hypothetically speaking what would be the worst case scenario.

Mr. Hanson said probably a fine he would think.

Councilmember Giacomino indicated to Britt that before he put anything in the newspaper you might want to double check it.

Mr. Hanson stated that he hadn't put anything in the newspaper. Councilmember Giacomino said that there was an article in today's paper written by Shar. Mr. Hansen stated that he had not spoken to Shar.

MOTION: Mayor Smith moved to authorize the Mayor and City Attorney to sign and return the April 19, 2019 letter from an Assistant Attorney General finding an open meeting law violation for unauthorized disclosure of executive session information and requiring the City to pay a \$500 fine and the City Council and staff to attend Open Meeting Law training.

SECOND: Councilmember Johns

ROLL CALL VOTE:

AYES: Councilmember Giacomino, Johns, Cline and Mayor Smith

NAYS: Councilmember Higgins and Hansen

MOTION PASSED: AYES -4; NAYS -2

2. Discussion and Possible Approval of a motion to go into Executive Session regarding the City Manager Position Pursuant to ARS § 38-431.03(a)(1), discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body.

Per ARS § 38-431.03(a)(1), the City Council may vote to go into executive session for discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body.

David M. Smith, Mayor

MOTION: Councilmember Higgins moved that the Mayor and Council go into Executive Session pursuant to A.R.S. § 38-431.03(a)(1) for the consideration of the employment and appointment of a City Manager.

SECOND: Mayor Smith

MOTION PASSED UNANIMOUSLY

MOTION: Councilmember Higgins moved to come out of Executive Session.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

- 3. Discussion and Possible Direction to Staff to contact the individuals specified in Executive Session to arrange for interviews and to prepare a list of final candidates for the City Manager position for release to the public.

David M. Smith, Mayor

Mayor Smith stated that the Council had decided to have several names looked at with a professional background check. When that check was completed those candidates will be invited to Bisbee on a tentative date June 17th for interviews. The Council will be discussing later the format for that particular day.

MOTION: Councilmember Higgins moved direct Staff to contact the individuals specified in executive session to arrange for interviews and to prepare a list of final candidates for release to the public.

SECOND: Councilmember Johns

MOTION PASSED: UNANIMOUSLY

MOTION: Councilmember Higgins moved to adjourn the meeting.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 6:43 PM

David Smith, Mayor