

MINUTES – DRAFT
SPECIAL SESSION
MAYOR AND COUNCIL
COUNCIL CHAMBERS · 473 S. Main Street, Room #106
TUESDAY, DECEMBER 9, 2014
5:30 P.M.

1. **Call to Order**

Mayor German called the meeting to order at 5:30 pm.

2. **Roll Call**

Mayor German, Vice Mayor Baker, Councilors German, George, Gordon, Jones and Whatley present.

Also, Present Town Manager Russ Martin, Marshal Nancy Gardner, Deputy Clerk Virginia Jones, Administrative Assistant Clerk Barbie Bridge, Recording Secretary Marie Moore.

Mayor German noted a Point of Personal Privilege and gave condolences to Vice Mayor Jackie Baker for the loss of her Grandson this past week.

3. **Discussion regarding Board and Commission members' actions and the repercussions it may have on staff, current and future developers, Council and the Town as a whole. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.1 for the purpose of discussion and possible dismissal of Commissioner Robert Burnside from the Town Planning and Zoning Commission.**

On a Motion by German, seconded by Baker, Council unanimously voted to have Commissioner Burnside remain on the Town Planning and Zoning Commission.

Mayor German informed members of the public that there would be no call to the public for input as this is a Council action only.

Mayor German explained that he had previously had a non-formal conversation with Planning & Zoning Commission Chairman B.J. Davis regarding Commissioner Burnside's conduct during meetings but Chairman Davis had requested that more time be given to Commissioner Burnside and possibly the situation would self-correct, rather than action taken at that time. Mayor German indicated that it had been brought to his attention again that the issue was still happening and Burnside had been spoken to regarding his actions.

Chairman Davis expressed to Council his concerns regarding unnecessary actions from Commissioner Burnside. Davis explained that Burnside addressed a matter at a Commission meeting regarding a change of zoning in an inappropriate manner during a public meeting.

Mayor German inquired if Chairman Davis felt that the commission had been blindsided due to the manner that Burnside addressed the matter. Davis indicated that he did in fact feel that way and felt that Burnside could have handled the matter in a more professional way.

Mayor German stated that he received notification from another Commission member that they will refuse to serve if Burnside remains on the Commission and inquired if Davis knew of this. Davis indicated he did, but felt the issue at this time was Burnside's conduct at the previous meetings.

Vice Mayor Baker requested why it is the preference of the Commission for questions to be asked prior to the meeting rather than in public. Chairman Davis explained that in his opinion, this was a procedural issue, which should have been handled prior to the meeting, rather than waiting until the last question as Burnside had done. Davis indicated that the problem was not if the question was legitimate; it was how the question was

presented that had created the incident. Davis also indicated he felt that allowing Council to make the final decision was the appropriate solution to the matter, although Burnside did not agree.

Whatley inquired if the issue is only regarding the November 6, 2014 situation. Davis explained that there had been other incidents that had built up over several meetings and the meeting on November 6, 2014 was the final instance that brought this complaint on to Council.

Councilor German inquired if the staff had already sought the opinion of the Town Attorney prior to the meeting. Davis indicated that not to his knowledge and that the staff handled the matter, as they should have. Councilor German indicated that she felt it was a legitimate question to ask and complimented how the matter was handled in the end.

Chairman Davis indicated that he welcomes healthy discussion of the Commissioners, but did not feel that the question was handled in an appropriate manner. Davis also indicated he felt that the presence brought before the public and applicant gave the impression that the Commission was ill prepared in knowledge of procedural actions, which could have been handled prior to the meeting.

Town Manager Russ Martin addressed Council and explained that most conversations he has had with Mr. Burnside has been informal. Martin indicated that conversations have included the difference in Burnside's position as a Planning and Zoning Commission rather than his prior position held as the Mayor of the Town. Martin indicated that his encounter with staff after the meeting on November 6 prompted action regarding the incident. Martin explained that the only items that were on the agenda for the November 6 Commission Meeting were very clear, but a matter that was not on the agenda had been discussed for approximately 45 minutes. Martin explained his main concern is that this situation does not repeat itself.

Councilor George indicated that he has attended a few planning and zoning meetings. George explained he felt that there are different ways that issues in the meetings should have been handled. George stated that he feels the appropriate way to handle the issue is to ask questions prior to the meeting to alleviate any issues.

Vice Mayor Baker asked if this could perhaps be a learning experience for future issues and suggested that if future issues should arise such as this, then the Town Attorney could be consulted prior to it being placed on the agenda.

Councilor German requested clarification as to whether Martin had in fact spoke to Burnside prior to the meeting and knew that Burnside would be asking questions. Martin explained that he had spoken to Mr. Burnside and that was correct, the asking of questions was not the issue. Mr. Martin explained that the issue is how Mr. Burnside handled a procedural question and waited until the end of the discussion and the statements that Mr. Burnside used were inappropriate. Staff indicated that they were "most-embarrassed" for how the applicant was treated not themselves.

Mayor German requested to review portions of the video and audio of the November 6, 2014 Commission meeting and specific spots in the meeting of which he felt were pertinent to the issue.

Martin explained that there was good conversation from the Commissioners and commended the Chairman in how he handled the matter.

Council reviewed the video and audio of the November 6, 2014 Planning & Zoning Commission meeting. Martin summarized the meeting while showing audio starting at 1:06:53 and continuing until 1:50:27.

Upon the request of Mr. Burnside, the meeting recessed at 6:47 pm and reconvened at 6:57 pm.

Commissioner Burnside addressed Council regarding the allegations of his conduct in question. Burnside

stated that his ethics have never been questioned, except during the first six months during his prior term as Mayor for the Town of Camp Verde, Arizona. Burnside defended that he did not cuss or become angry, but rather he asked questions, which he felt is his duty as a commissioner. Burnside indicated that he also works full time along with his volunteer duties as a commissioner; therefore, he did not have the time to ask staff or the Chairman prior to the meeting. Burnside asked for Council and Mayor to take the time to look at the documents, and in doing so, they would find that the information is incorrect, which is the reason why he voted against the motion. Burnside expressed that he was disappointed that he was not contacted prior to a complaint being filed if there was an issue with his conduct. Burnside referenced the Code of Conduct and ethics and stated that if complaints are given to the Mayor, a meeting should be called with the alleged person and if the issues were not resolved, the matter would go before Council. Burnside indicated that Mayor German met with him prior to a Planning and Zoning meeting and asked for his resignation without any explanation. Burnside questioned the validity of allegations from Commissioners who have stated they would not proceed with their position on the Commission due to his position as a member of the Commission. Burnside indicated that he felt he followed protocol during the meeting. Burnside stated he felt he was being chastised for not speaking first during the meeting.

Mayor German clarified his discussion and words spoken during the conversation taken place, and indicated that he did not specifically ask for Burnside's direct resignation. Mayor German also stated again that he requested the Town Manager intervene as an effective and less public intervention to discuss the matter before taking the matter to Council. Burnside stated he respectfully disagreed with the Mayors counter-statement.

Vice-Mayor Baker asked Burnside directly if he had contempt toward staff and indicated that at times Burnside's demeanor could be harsh and come across as belittling. Burnside clarified that it is not his intentions to belittle anyone, but rather be correct in matters.

Councilor George inquired to Burnside why he knowingly violated the Open Meeting Law when sending an e-mail in response to the Town Attorney's decision. Burnside indicated that he felt once the matter had received a final answer from the Town Attorney, and the matter was closed; therefore, the open meeting law was not violated.

Commissioner Burnside requested the Mayor rescind his decision and allow for public input. Mayor German denied the request, stating the Council would handle the matter appropriately. Burnside then indicated that the public has letters they would like to file regarding the matter, Mayor German stated they would be accepted and encouraged the public to file letters in a more timely manner so that Council Members may review them prior to a meeting.

Councilor Jones expressed that she felt the issue was not that questions were asked by Burnside, but rather the manner in which they had been asked. Jones expressed that the tone of questions can indicate more than the words of the questions themselves. Jones stated that she agreed with Vice Mayor Baker that this matter could be used as a learning lesson.

Councilor Whatley indicated that she supports her fellow Council members, staff and the Town. Whatley expressed confliction that she felt toward the situation, and commended Burnside for past issues he has resolved for the Town, but strongly felt there has been a broken relationship due to the actions.

Councilor George expressed that he does feel that we should use this matter as a learning experience, and put the best foot forward.

Councilor Gordon stated that when Burnside was appointed to the Planning & Zoning Commission, he was encouraged that someone would pay attention to detail. Gordon indicated that he did feel that the way the matter was handled was inappropriate and encouraged that in the future Burnside be more prepared to handle

the matter prior to a meeting.

Mayor German affirmed the other Council Members consensus and to use the situation as a learning lesson. Mayor stated that although the appointment is a volunteer position, professionalism and courteousness is still required.

Vice Mayor Baker conferred that this has been a learning experience. Baker strongly encouraged the importance of working as a team and how these matters can be resolved in the future.

Councilor German agreed specifically with Whatley of her support for Planning & Zoning Staff and the Commissioners. German stated that our community expects for Council members and Commissioners to ask questions. German stated that she does not feel that Burnside would ever intentionally be rude or disrespectful toward staff or Commissioners.

Mayor German requested Mr. Burnside come to the podium. Mayor German stated he would like to request Council to consider allowing Mr. Burnside to remain on the Commission as this time with the understanding that Mr. Burnside will do his best to work with the Chairperson and staff beforehand, until such time Council has the opportunity to address some of the issues that were brought forth during the meeting. Burnside responded 'absolutely' but ask for clarification regarding what issues the Council would be clarifying. Mayor German stated there is a mixture of terminology that is not clear and would like those items spelled out so there is no confusion, and would like it clear and professional.

Councilor Jones requested clarification as to the appropriate actions to be followed if the issue were to arise again. The Mayor responded that he would be requesting a future agenda item to address Jones' concerns that would include certain levels of reprimand and include training.

Motion: See Above

4. **Following the executive session, the Town Council may vote to remove Commissioner Burnside from the Town Planning and Zoning Commission.**

No action was taken.

5. **Adjournment**

On a Motion by Baker, seconded by Jones, Council unanimously voted to adjourn the meeting at 7:50 pm.

Charles German, Mayor

Marie Moore, Recording Secretary

CERTIFICATION

I hereby certify that the foregoing Minutes are a true and accurate accounting of the actions of the Mayor and Common Council of the Town of Camp Verde during the Special Session of the Town Council of Camp Verde, Arizona, held on December 9, 2014. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this _____ day of _____, 2014.

Debbie Barber, Town Clerk