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CALL TO ORDER

[Time: 00:00:05]

Mayor Borowsky: Good afternoon. At this time, I would like to call the April 18, 2025, Special Meeting and possible Executive Session of the Scottsdale City Council to order. City Clerk, Ben Lane, please conduct the roll call.

ROLL CALL

[Time: 00:00:19]

City Clerk Ben Lane: Thank you, Mayor. Mayor Lisa Borowsky.

Mayor Borowsky: Present.

Ben Lane: Vice Mayor Jan Dubauskas.

Vice Mayor Dubauskas: Present.

Ben Lane: Councilmembers Barry Graham.

Councilman Graham: Here.

Ben Lane: Adam Kwasman.

Councilman Kwasman: Present.

Ben Lane: Kathy Littlefield.

Councilwoman Littlefield: Here.

Ben Lane: MaryAnn McAllen.

Councilwoman McAllen: Present.

Ben Lane: And Solange Whitehead.

Councilwoman Whitehead: Here.

Ben Lane: Interim City Manager Greg Caton.

Interim City Manager Greg Caton: Here.

Ben Lane: City Attorney Sherry Scott.

City Attorney Sherry Scott: Here.

Ben Lane: And the Clerk is Present. Thank you, Mayor.

EXECUTIVE SESSION

[Time: 00:00:51]

So, generally speaking as always, the Executive Session is reserved to discuss and consider employment, assignment, appointment, promotion and compensation and benefits of a permanent City Manager, I should not as say always because this is specific, and employment matters relating to the City Manager's office.

Or discuss and consider its potential position and instruct its City Attorneys regarding the public body's position on contracts that are the subject of employment negotiations, or discuss and consult with the City's Attorneys for legal advice and necessary city staff regarding the employment, assignment, appointment, and compensation and benefits of a City Manager.

Or discuss and consult the City Attorneys and designated representatives of the city to consider legal

advice related to recently introduced state legislation that will impact the city's multifamily residential hotel and industrial land uses.

[Time: 00:01:50]

So, before I entertain a motion, can you be more specific? I understand...Let's take them separately, because there's two items for consideration in Executive Session. One is the appointment of the City Manager, I believe, and the second one is the SB-1543; is that correct, Sherry Scott?

City Attorney Sherry Scott: That's correct, but we're really rather than specifically mentioning the senate bill number, it's just legal advice related to recently introduced state legislation that will impact the city's multifamily residential hotel and industrial land uses. It's a little more broad.

Mayor Borowsky: So, taking that item, I have a question about that, are we involved in pending litigation regarding that or is this the contemplation of litigation related to that issue?

Sherry Scott: We are not involved in any pending litigation.

Mayor Borowsky: So, is it regarding the contemplation of litigation?

Sherry Scott: It allows the Council to discuss contemplation of litigation.

Mayor Borowsky: Receive legal advice, you mean?

Sherry Scott: It allows the Council to receive legal advice, and that legal advice could be related to potential litigation. Certainly.

Mayor Borowsky: Okay. And can you also speak to the issue involving the City Manager appointment? Why that needs to be subject to an Executive Session?

Sherry Scott: Mayor, it is an allowed Executive Session topic under the state's Open Meeting Law.

Mayor Borowsky: I'm aware. So, with that, I would like to make a motion to have the City Manager appointment discussion reserved in the Open Session or have that withdrawn from Executive Session and have that right now in Open Session. Does anyone want to second that?

Sherry Scott: If I may, Mayor, you would not be able to have an Open Meeting item on this matter. The City Manager's potential appointment at 4:00, because our Regular Meeting is scheduled for 5:00. You do have an item on for your Regular Meeting where that could be discussed.

Mayor Borowsky: On the general on the Regular Meeting.

Sherry Scott: On the Regular Meeting.

Mayor Borowsky: Yes, I like to do that. I don't see a second. Does anyone want to do that as well? And the basis for my motion is we have an Interim City Manager, Greg Caton, who is being considered for a permanent appointment. I believe the residents of Scottsdale should be availed to those discussions, just like it would be in an interview situation if we were down to the final candidates, which has, in my experience been the case. And I take exception with the fact that we need to do this behind closed doors. I'm not in favor of this at all. I think that if we are having a legitimate interview here, which will which will alleviate or do away with our responsibility to do or predecided responsibility to do a national search, I believe it's incumbent upon us to be transparent and have those discussions in full view of our public.

Councilman Graham: Madam Mayor, may I make a motion?

Mayor Borowsky: I didn't see a second to this. Does anyone have a second for mine?

[Time: 00:05:45]

Councilmember Kwasman: I have a question about your motion because I'm confused.

Mayor Borowsky: Go ahead.

Councilman Kwasman: My question just is the normal what is the standard and norm for the city of Scottsdale? So without any hyperbole, clearly there's a disagreement about the nature about the hiring. Fine, open and honest in front of everybody, right? However, what is the norm in the city of Scottsdale? Is it going into Executive Session on any Charter Officer, the City Manager, the City Attorney, otherwise, right. We could play this game for everybody, right? So is the norm go into Executive Session, hash it out in Executive Session, come up with a contract positively or negatively and then vote on it in the general session or is the norm to hash out the sausage out here. I'm okay with both. So either way, I'm totally fine with it, but I want to follow the calm, normal standard practice of Scottsdale.

Mayor Borowsky: It's a great question, and while there probably isn't a norm, there's a state statute that speaks to this, which allows us to go either way, but I will note importantly the norm as established by this Council effective January 14, 2025 was to have this discussion in Open Session when it pertained to former acting City Manager Bill Murphy. So, I'm not sure why would we treat this individual, you are current Interim City Manager any different than we would have done then? So, to answer your question, that's our norm.

Councilman Kwasman: To that point, Mayor, Bill Murphy, I believe resigned prior to the Council Meeting if I'm not mistaken. So may I direct that to Ms. Scott, just to find out just what the background was beforehand in terms of the you have to excuse me. This is my first time on the Council. I just would like to know the norm of Charter Officers and not just this city, is it discussed in Executive Session and then out here. Or is it discussed out here in its entirety? I'm not decided on the outcome here, I just want to follow the standard and keep it calm and regular.

Sherry Scott: Mayor?

[Time: 00:08:15]

Mayor Borowsky: I just want to speak to that. While he did, before you give any advice here, while he did resign prior to his appearance at the regular session agenda item, it was scheduled for an Open Meeting.

Sherry Scott: Mayor, and Councilman Kwasman, there is no set process. As the Mayor pointed out, the Open Meeting Law does allow the Council to move into Executive Session to discuss these matters. It has an exception that for salary discussions an officer or employee may demand that the discussion occur at a public meeting. So, it gives the employee the option of demanding that the discussion occur at a public meeting.

In terms of how the city has done it with past Councils, sometimes there's a statement publicly by the applicants applying and then there's a convening into Executive Session to discuss a potential appointment in terms of a contract. And I think that once we're at that point, if the Council is at that point of wanting to extend a contract and enter into those discussions, that typically does happen in Executive Session, before it is approved in a public meeting.

Councilman Kwasman: Madam Mayor, so you are talking, I just want to be very clear, you want to have a potential salary discussion over in Open Meeting as opposed to an Executive Session?

Mayor Borowsky: Absolutely not. That's a specific element that is reserved exclusively, as far as I understand pursuant to the statute to the Executive Session.

However, and this is a question, thank you for bringing that up do we have a proposed contract? Are we entering into are we reviewing the proposed contract today in Executive Session? This is for a determination on whether we forgo the executive search, correct? And appoint the Interim City Manager.

Sherry Scott: Well, I think the Executive Session is written broadly to allow the Council to consider those items. But there is a template contract that we have been using for years. That's in the public materials with a couple of spaces for terms that need to be filled in. And it's up to the Council whether or not the Council is comfortable with that template contract or wants to make additional changes. Once you if you reconvene in Executive Session and get legal advice and discuss contracts that may be the subject of negotiation, which you are authorized to do, if the Council is not ready to appoint a City Manager or approve a contract in the Regular Meeting, that item can be continued or otherwise disposed of.

So, there's a lot of variety for the Council here to make its determination. And if the Council chooses not to convene into Executive Session, the Council certainly has the opportunity to do that as well.

Councilman Graham: Madam Mayor?

[Time: 00:11:53]

Mayor Borowsky: Go ahead, Councilman Graham.

Councilman Graham: Thank you, Madam Mayor. I would, so we, the public is expecting us to start our Regular Meeting at 5 p.m. We have a very full Executive Session. We're probably going to run past 5 p.m. and we're going to make the public wait for us. I would like to get back into Executive Session as expeditiously as possible. I have been on Boards and Commissions since 2014. I have been on Council for a few years. I have always seen the terms of these hires done in Executive Session. The last time with Greg Caton, interim that was because he was appointed Interim City Manager by Bill Murphy and then we affirmed that up here by vote. So, with that, I will move to expeditiously adjourn to Executive Session to discuss items, a, b, d, and c. Thank you.

Councilwoman Littlefield: Second.

Mayor Borowsky: Before I vote, I'm just lodging my objection. I think we owe it to the public to have these discussions with the Council and the acting City Manager in public. Thank you.

Councilwoman Littlefield: Mayor, if I could.

Mayor Borowsky: Oh, I didn't see that.

Councilwoman Littlefield: I would like to speak to Barry's second. I have been on this Council for over ten years, ten long years, and I have seen a number of Charter Officers being appointed, being considered for various positions, including the City Manager. It's always been, in my experience in closed Exec. Session where we discuss these things in private, iron out what we need to iron out, get our questioned answered. Sometimes we will bring a candidate into Exec. Session where we can ask him questions and get his answers to the concerns that we have and then he leaves and we go on with our considerations and our discussions.

The terms of the salary and the compensation has always been in Exec. Session. And I don't remember any time for any of the Charter Officers that had has not been. So, I think if you don't do that, you are breaking with the history and the tradition of how we handle these kinds of decisions. Thank you.

Mayor Borowsky: Seeing no other comments, please register your vote. At this time, we are adjourned into Executive Session. Thank you.

ADJOURNMENT

[Time: 00:14:32]