

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD NOVEMBER 22, 2010 AT 7:00 P.M.  
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**CALL TO ORDER:**

Mayor Fenn called the meeting to order at 7:00 p.m. with the pledge of allegiance. Mayor Fenn then introduced Pastor Kirk Sorenson from the Assembly of God, who offered the invocation.

**ROLL CALL:**

Present were: Mayor Mark M. Fenn, Vice Mayor Toney D. King, Sr. Councilmembers David Lambert, John Lodzinski, Lori McGoffin and Al Sacco. Excused was Councilmember Jo Deen Boncquet.

**EMPLOYEE RECOGNITION:** None.

**PROCLAMATION:** None.

**CALL TO THE PUBLIC:**

Vice Mayor King shook the hands of Council and present staff. Vice Mayor King then addressed the Council stating it had been a pleasure serving the community for the past 10 years plus. He then thanked his wife and daughters for the sacrifice they made and for supporting him. He then thanked the City employees and stated he will never quit fighting for the employees and for what is right for the City of Benson. He then stated he was rendering his resignation in order to be able to run for the office of Mayor of the City of Benson. He thanked the Council, City Staff and the public.

City Clerk Vicki Vivian addressed Council regarding the upcoming 2011 City elections stating the Primary Election is scheduled for March 8, 2011 with the General Election to be held on May 17, 2011. Ms. Vivian then stated candidates seeking municipal office may obtain nomination papers and other materials, which must be filed by candidates, at City Hall in the Administration office, adding that in order for candidates names to appear on the Primary Election ballot, they must file nomination papers and other forms by 5:00 p.m. on December 8, 2010 at City Hall in the Administration office. Ms. Vivian then stated the General Election will be held to fill any Council positions that may not be seated at the Primary Election and also to submit a franchise agreement to the voters for final approval. Ms. Vivian then stated for City residents wishing to participate in the election process, they must be registered to vote, adding the deadline for voter registration for the 2011 Primary Election is February 7, 2011 and for the 2011 General Election, the deadline is April 18, 2011. Ms. Vivian then announced there would be a Possible Candidate Forum held on Wednesday, December 1, 2010 at 6:00 p.m. in the Council chambers, for anyone who is interested in possibly running for a position on the City Council. Ms. Vivian stated there would be a brief presentation on our City government, the services the City provides, where information can be found relating to City business as well as information on the election process itself. Ms. Vivian then stated if anyone is interested or knows someone who may be interested to please let them know about the forum, where they can learn about our local government and how they can participate.

**CITY MANAGER REPORT:**

Mayor Fenn stated after the City Manager report, he would ask City Manager Glenn Nichols to expand on Vice Mayor King's resignation leaving a vacancy on Council and what would be done in the coming weeks to fill the vacancy.

City Manager Glenn Nichols then addressed Council, giving the dates of upcoming meetings and events.

- November 23, 2010 – Community Watershed Alliance, 6:30 p.m., City Hall
- November 30, 2010 – Citizen Review Session, 7:00 p.m., City Hall
- December 7, 2010 – Planning & Zoning Public Hearing, 7:00 p.m., City Hall
- Planning & Zoning Worksession, 7:00 p.m., City Hall
- December 13, 2010 – City Council Meeting, 7:00 p.m., City Hall
- December 14, 2010 – Library Advisory Board, 4:00 p.m., Library
- December 18, 2010 – Historic Preservation Commission, 9:00 a.m., City Hall
- December 27, 2010 – City Council Meeting, 7:00 p.m., City Hall
- December 28, 2010 – Community Watershed Alliance, 6:30 p.m., City Hall
  
- November 25 & 26, 2010 – HOLIDAY – City Offices Closed
- December 11, 2010 – Christmas on Main Street, 10:00 a.m. – 4:00 p.m., Santa will be present, along with a large variety of craft and food vendors.
- December 24, 2010 – HOLIDAY – City Offices Closed
- December 31, 2020 – HOLIDAY – City Offices Closed

Mr. Nichols then stated the City would like to run advertisements to solicit interested residents of the City to complete an application to be considered for the vacant Council member position created on November 22nd, when Vice Mayor Toney D. King, Sr. resigned from the Council in order to run for Mayor. Mr. Nichols stated the advertisements would run in the local newspaper and on the radio station and completed applications could be presented for Council consideration on December 13, 2010.

**NEW BUSINESS:**

**1. Consent Agenda**

- 1a. Minutes of the November 1, 2010 Special Meeting, Including Executive Session Minutes
- 1b. Minutes of the November 8, 2010 Regular Meeting
- 1c. Invoices processed for the period from November 2, 2010 through November 15, 2010

Councilmember McGoffin moved to approve the Consent Agenda. Seconded by Councilmember Sacco. Motion passed 5-0.

**2. Resolution 68-2010 of the Mayor and Council of the City of Benson, Arizona, designating the election date and purpose of election, designating the deadline for voter registration and designating the place and the last date for candidates to file nomination papers**

City Clerk Vicki Vivian addressed Council stating there are certain requirements for elections outlined in the Arizona Revised Statutes, noting one of the requirements is that the local governing body or the City Clerk must call any election at least 90 days prior to the election. Ms. Vivian then stated Resolution 68-2010 satisfies this requirement, adding any document produced regarding elections must be produced in both English and Spanish, with both versions being presented to Council. Ms. Vivian then stated the resolution will be published in the local newspaper as a legal ad and that she will continue addressing Council at the Call to the Public to inform the public of the election process. Mayor Fenn asked what the deadline was to file candidate nominating papers with Ms. Vivian stating the deadline is December 8, 2010 at 5:00 p.m. for both the Mayor and Council member positions.

Councilmember Lodzinski moved to approve Resolution 68-2010. Seconded by Councilmember Lambert. Motion passed 5-0.

**3. Review of City Finances with emphasis on September, 2010, financial results and the City's financial position at September 30, 2010 and discussion of sales tax revenues and projected future net revenues**

Finance Director Jim Cox addressed Council stating this would be a very brief presentation regarding the September numbers with the October numbers being presented in December and the November and December numbers being presented at the second meeting in January, 2011. Mr. Cox then addressed

citywide financial highlights, stating unrestricted cash decreased by \$76,000 and will continue to decrease with the exception of November when the City receives a large payment from Arizona Golf Systems (AGS) in the amount of \$110,000 for golf course repairs, but noted most of it will go back out in December. Mr. Cox then stated the City's fund balances decreased by \$149,000 during September and were down a total of \$240,000 year-to-date, adding it was very similar to what was done in the previous year.

Mr. Cox then addressed citywide financial results, stating revenues were down \$119,000 compared to September of 2009 and down \$129,000 year-to-date, but that it actually did reverse a little in October, 2010 and the numbers are looking better. Mr. Cox then stated what appeared to be a cause of concern is less of a concern today and that other costs are tracking right along with prior years, with the notable exception the City didn't have any huge debt payments at the beginning of this year like we did at the beginning of last year.

Mr. Cox then moved to the General Fund stating revenues were down \$119,000 for the month, but there had been 2 very unusual refunds that had to be paid in September that amounted to slightly over \$50,000 and there were lower collections in a lot of areas, particularly in building permits. Mr. Cox then stated expenditures are right on track with last year and the fund balance is almost exactly where it was last year with the exception of the debt payment that was made last year.

Mr. Cox then addressed the Enterprise Funds, stating they look exactly like last year, with water and wastewater funds just about break-even and the gas fund is down \$69,000 year-to-date since no one is using much gas right now due to the weather, but the gas department is still incurring normal on-going expenses. Mr. Cox noted the gas fund is also just about exactly where it was last year at this time.

Mr. Cox stated the overall summary is the City had 10 consecutive months of very modest City sales tax revenue growth, noting September was the first month the City was down a little bit, but it turns out it was an anomaly. Mayor Fenn clarified with Mr. Cox the September figures being discussed were a reflection of the actual sales in July, which is a typically slow month for the City with Mr. Cox confirming this. Mr. Cox then stated the September collections were a little lower than last September and in looking at overall City sales tax collections, which includes all taxes, including construction sales tax, it looks like we've dropped significantly, however, if we take out the construction sales tax and look only at the transaction privilege taxes, you can see in September, the collections did go down, but that October collections are back up again, indicating that what occurred in the month of September was indeed, an anomaly, adding both the prior month and the subsequent month collections were better than the same months in the previous year.

Mr. Cox then stated sales tax collections are really decreasing in construction sales tax, since there is no major construction going on in the City right now. Mr. Cox then stated bed taxes are tracking right along with the prior year, adding the City's transaction privilege tax is, again, tracking right along with last year. Mr. Cox then stated the collections are slightly better in the month of October, 2010 than in October of the prior year, adding the City broke our 10 month streak of consecutive tax collection increases, but only by a small amount and the City is back up looking better in October as well as the November receipts looking better also. Mr. Cox then noted the State collections are interesting and that for the first time in the past 3 years, State sales tax collections were actually almost equal in a year-to-year comparison, indicating there might be some sign of life on the State level that we haven't seen in a long, long time.

Mr. Cox then asked if there were any questions, with Councilmember Lambert asking if Mr. Cox could put the transaction privilege tax on its own slide so the chart would be larger with Mr. Cox stating he would be happy to do that.

4. **Discussion and possible action regarding the cancellation of the December 27, 2010 Regular City Council Meeting**

Mayor Fenn asked City Manager Glenn Nichols if he felt everything that is critical could be addressed at

the December 13th meeting with Mr. Nichols stating that would be possible and if anything out of the ordinary should come up that the Council would need to act on, staff will contact them for the consideration of calling a meeting for December 27th. Mayor Fenn stated this could be decided on December 13th with City Clerk Vicki Vivian stating the Council could always call a meeting, if needed, but earlier action would allow the cancellation to be widely publicized. Councilmember Lambert moved to cancel the December 27, 2010 regular City Council meeting. Seconded by Councilmember McGoffin. Motion passed 5-0.

**EXECUTIVE SESSION: Pursuant to A.R.S. §38-431.03 (A)(3) & (4), for discussion or consultation for legal advice from the City Attorney and to consider its position concerning pending litigation matter Silver Two Investments, LLC; Butterfield Plaza Benson, LLC, dba Butterfield Plaza vs. City of Benson**

Mayor Fenn stated this final item of business was to call an executive session to receive legal advice and an update on the pending litigation matter on the Butterfield Plaza vs. City of Benson, noting he is named separately in the litigation. Councilmember Lambert then stated the Council had acted to have the Mayor released, with Mayor Fenn stating it had not happened officially, therefore he would not participate in the executive session and since there was no matter of business after the executive session, he would dismiss himself, asking Councilmember Lodzinski to chair the remainder of the meeting. Councilmember McGoffin moved to enter into an Executive Session with the City Council, the City Manager, the City Attorney and the City Clerk, as well as the City's outside counsel secured by the Arizona Municipal Risk Retention Risk Pool, Mr. Marshall Humphries at 7:22 p.m. Seconded by Councilmember Lambert. Motion passed 4-0 with Mayor Fenn abstaining.

Council reconvened at 7:50 p.m.

**DEPARTMENT REPORTS:** None

**ADJOURNMENT:**

Councilmember Lambert moved to adjourn at 7:50 p.m. Seconded by Councilmember McGoffin. Motion passed 4-0, with Mayor Fenn not present to vote.

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Mark M. Fenn, Mayor

ATTEST:

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Vicki L. Vivian, CMC, City Clerk