

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JANUARY 11, 2016 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 7:07 p.m. with the Pledge of Allegiance.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Lori McGoffin, Councilmembers Pat Boyle, Jeff Cook, Joe Konrad, David Lambert and Chris Moncada.

EMPLOYEE RECOGNITION: None

PROCLAMATION: None

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Alex Binford-Walsh, Cascabel Road, Benson, passed out information to the Council regarding the San Pedro River Valley; the endangered species in the San Pedro Watershed, increased population and traffic impacts, and water. The handout will be retained with the Council packet. Mr. Binford-Walsh stated he lived in Cascabel and expressed concern over the proposed Villages at Vigneto creating pressure for people to live in rural areas, adding if the development is built, it should be built so people don't feel the necessity to move to more rural areas and that it should not expand its impact. Mr. Binford-Walsh then addressed the information on water, stating the report talks about the mixed clay and sand and how water comes up from the deeper aquifer, adding right now, the river aquifer puts pressure on the deeper aquifer, but if the river aquifer falls too much, it will result in less pressure and water won't come up. Mr. Binford-Walsh then stated if the river aquifer drops too much, water will go even farther down and the water in the river will be lost. Mr. Binford-Walsh then spoke about traffic and that the developer has done a good job of self-containment with traffic numbers being much lower than a normal development, but it would still double the amount of traffic between Benson and Tucson, would almost triple the traffic on 4th Street and stated Highway 90 would be significantly busier. Mr. Binford-Walsh then stated the way to avoid too much expansion into the desert is to build a community that tries to incorporate as much nature as they can.

Tricia Gerrodette, Eagle Ridge Drive, Sierra Vista, stated she was pleased to see the amount of work done on special taxing districts, adding there were a lot of positive changes as it moved forward and she thinks it's looking good. Ms. Gerrodette stated she looks forward to the discussion and possible adoption of the policies. Ms. Gerrodette then stated she was hoping for clarification as to what the process is in moving forward on the Community Master Plan, how the public can comment on it, and which version is in existence, adding all the versions have same date and same footer. Ms. Gerrodette stated she was also hoping to have clarification on the timeframe and schedule for the public to remain engaged in this issue.

CITY MANAGER REPORT:

City Manager William Stephens addressed Council, giving the dates of upcoming meetings and events.

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| Tuesday, January 12, 2016 | - Library Advisory Board, 4:00 p.m., City Library |
| Saturday, January 16, 2016 | - Historic Preservation Commission, 9:00 a.m., City Hall |
| Wednesday, January 20, 2016 | - Community Watershed Alliance, 6:00 p.m., City Hall |
| Monday, January 25, 2016 | - City Council Meeting, 7:00 p.m., City Hall |

Monday, January 18, 2016

– Martin Luther King Day – City Offices Closed

Mr. Stephens then stated for more events in Benson, the public could visit the City's website: www.cityofbenson.com under "What to do Today." Vice Mayor McGoffin then stated the Benson Middle School would be hosting a wrestling tournament this weekend with 23 schools and 13 weight divisions, adding there will be a lot of people attending. Vice Mayor McGoffin then stated the tournament starts at 8:00 a.m. and lasts until about 10:00 p.m., and stated the tournament is an awesome and entertaining event for the community.

NEW BUSINESS:

1. Discussion and possible action on the Consent Agenda

- 1a. Minutes of the November 9, 2015 Regular Meeting
- 1b. Minutes of the November 30, 2015 5:30 p.m. Special Meeting
- 1c. Minutes of the November 30, 2015 6:30 p.m. Special Meeting
- 1d. Appointment of Kathleen Bushman to the Benson Library Advisory Board
- 1e. Purchase of 2 new BAT (Benson Area Transit) Buses (approximately \$270,000) approved budget CIP Project TR 15-2
- 1f. Invoices processed for the period from December 4, 2015 through December 17, 2015

Vice Mayor McGoffin moved to approve the Consent Agenda. Seconded by Councilmember Moncada. Motion passed 7-0.

2. Discussion and possible action regarding Resolution 1-2016 of the Mayor and Council of the City of Benson, Arizona, to support efforts to have Congress designate the Chiricahua National Monument as a National Park

City Manager William Stephens spoke about the proposal to rename Chiricahua National Monument as Chiricahua National Park and how the action could potentially be a boost to tourism across Southeastern Arizona with minimal impacts to budgets. Mr. Stephens then stated to date, the Cochise County Board of Supervisors, the City of Sierra Vista, and a number of chambers, commissions and councils have all backed this proposal unanimously and it is supported by Congresswoman McSally, who is assisting with the campaign. Mr. Stephens then stated Mr. Bob Gent was in attendance to give a short presentation on this project and answer questions.

Mr. Gent addressed the Council with a presentation, which will be retained with the Council packet. Mr. Gent spoke about how the idea for this proposal came to be, stating about a year ago, he attended a meeting with the tourism partners from Cochise County and he asked the Acting Superintendent of National Parks why the Chiricahua National monument wasn't a national park. The Acting Superintendent agreed it should and felt it would be a great way to celebrate the National Park's 100th anniversary, adding with that encouragement, he began working on this project. Mr. Gent then spoke about the benefits of changing the national monument to a national park which included tourism and national recognition. Mr. Gent stated the project has a lot of support throughout Cochise County and noted he will continue seeking support from other entities in the County. Mr. Gent also addressed the process for the designation to be made by Congress and that the proposal will take initiative and momentum to keep Congress on track, adding he will keep working toward the designation.

Councilmember Cook stated he thought the monument should be changed back to the Chiricahua Reservation for the Apaches who lived there when it was a reservation, but in moving the proposal forward, he wanted to know what the advantages would be with Mr. Gent stating there are well over 110 national monuments, but only 59 national parks, adding the status of a national park is more prestigious. Mr. Gent stated most of the monument is currently designated as wilderness so there will be no need for any land use or boundary changes, adding the designation will also have little impact on the federal budget, with the only initial impact being a new sign. Mr. Gent stated the designation would generate good press, a lot of people will learn about the monument and its history and it will attract people who appreciate the beauty of the park.

Councilmember Boyle asked if there would be any negative impacts or strings attached to the designation that would restrict Arizona citizens' rights with Mr. Gent stating there was not. Mr. Gent then stated Senator John McCain initially opposed the proposal citing concerns over the danger of the border situation, EPA regulations and that other parks were being proposed for designation, adding he had given a copy of the letter from Senator McCain to City Staff. Mr. Gent then stated he had visited the parks in Cochise County multiple times and he always saw more Border Patrol officers than visitors, adding he didn't think Senator McCain's concerns were a good reason to oppose the proposal. Mr. Gent then stated he feels the National Park designation would improve Cochise County's image and be good for tourism.

Mayor King agreed, adding more people may learn of the history with the attention the designation caused and then moved to approve Resolution 1-2016. Seconded by both Vice Mayor McGoffin and Councilmember Lambert. Motion passed 6-1 with Councilmember Cook voting nay.

3. **Discussion and possible action regarding the adoption of the City of Benson, Arizona Policy Guidelines and Application Procedures for Special Taxing Districts**

City Manager William Stephens stated at the Council worksessions held on December 14 and December 21, Council discussed and instructed the City Attorneys to make changes to the draft Community Facilities Districts policies and procedures. The changes have been made as directed and the policies on applications to consider the formation of Special Taxing Districts are proposed for Council consideration. Mr. Stephens then added City Attorney Paul Loucks and El Dorado Attorney Dana Belknap have been working on this and he would like Mr. Loucks to explain how the policies and procedures interact with other actions that are pending, such as the review of CMP (Community Master Plan), the negotiations over the development agreement and the request to file for the formation of a CFD (Community Facilities District).

Mr. Loucks stated he would defer the question of discussion regarding the development agreement or the CMP since those are not on the agenda. Mr. Loucks then stated he did get a call from Councilmember Konrad regarding a typo, which can be corrected before the Council approves the document, should they wish to. Mr. Loucks then stated pursuant to Council direction at the worksessions, he was making revisions to the policies and procedures and then shared the document with El Dorado and spoke to Ms. Belknap, adding they discussed changes and he has a call into Mr. Guckenberger, the special legal counsel for the City, to ask a couple questions based on those discussions. Mr. Loucks then stated he had not spoken to Mr. Guckenberger yet and is a bit nervous about moving forward on the policies as proposed. Mr. Loucks then stated he also discussed El Dorado's proposed application for a taxing district and El Dorado has concerns about whether they comply, adding El Dorado asked for a 2-week extension to review what they have submitted elsewhere and to see if the policies could be met by what they are proposing to submit. Mr. Loucks then stated El Dorado would like to have the time to review this while Mr. Loucks is waiting to hear back from Mr. Guckenberger.

Mayor King asked when this discussion took place and when Mr. Loucks received the last piece of information with Mr. Loucks stating the discussion took place last week and the last piece came in this morning from El Dorado about 11:30. Vice Mayor McGoffin confirmed that Mr. Loucks still had questions for Mr. Guckenberger. Mayor King stated the questions were a result of the conversations with El Dorado with Mr. Loucks confirming the questions were the result of the conversations last week. Mayor King stated the Council was trying to get things done, adding he knows El Dorado wants things done and the Council does too. Mayor King then stated information keeps getting passed back and forth and he knows the Council needs information, but he feels like the Council should have gotten all the information before today. Mayor King then stated he wasn't pleased, but he would be happy to table the issue, should the Council decide to table it.

Councilmember Moncada stated he didn't think the Council should table this item, adding the Council has been working on these policies because of the proposed development by El Dorado, but the policies are for future development and he thinks any development applications should follow the City's policies instead of the City's policies following the developer's application. Councilmember Moncada then stated he thinks the proposed

policies are good policies, noting the Council can't cover everything, but he thinks the Council should move forward.

Councilmember Lambert agreed, stating the policies can be a working document and if the Council hears back from the attorneys and want to revise the policies, they can, adding nothing is written in stone.

Councilmember Konrad asked Mr. Loucks what information he was waiting on from Mr. Guckenberger with Mr. Loucks stating one of the questions was regarding the \$50,000 application fee and the \$50,000 reimbursement of the City's expenses, adding El Dorado is questioning if the application fee is legal because the state law provision says the fee for CFD applications has to be reasonably calculated to meet the expenses a City would incur in adopting and approving a CFD application. Mr. Loucks then stated the application fee may be excessive and El Dorado could challenge that. Mr. Loucks then stated he didn't recall the other question he had for Mr. Guckenberger.

Councilmember Moncada stated if El Dorado were to challenge the fee, the process would take even longer and he felt the Council should move forward. Councilmember Boyle stated he felt the application fee was too high and asked Mr. Loucks if the Council could change it from \$50,000 to something like \$3,500 when they took action with Mr. Loucks stating the Council could adjust the fee if they wanted. Councilmember Boyle then stated \$50,000 is a lot of money and doesn't give El Dorado anything tangible and that all the expenses the City will incur will be covered in the reimbursable amount, therefore he would like to see the filing fee greatly reduced. Mayor King asked Finance Director Dustin DeSpain for his opinion with Mr. DeSpain stating based on his experience and research, \$50,000 was not unreasonable, adding the Council could look at any other CFD policies that exist, but it was really a decision to be made by the Council. Mr. DeSpain then stated most of the first \$50,000 application fee would cover in-house expenses and the other \$50,000 would cover third-party expenses, such as attorneys and anyone else the City has review those, but noted it could also be used for in-house expenses as well. Councilmember Moncada stated Peoria's CFD application fee is \$100,000 and he thinks half of that is considered reasonable. Mr. DeSpain then stated the Council needs to consider that El Dorado is asking for 3 CFDs and 7 RFDs, which is a lot more work than 1 CFD, when you measure the expenses and costs. Vice Mayor McGoffin asked if the expenses would be one-time expenses or ongoing expenses with Mr. DeSpain stating the number of districts will be requested when the developer files an application, but eventually the districts will be activated. Mr. DeSpain then stated Revitalization Districts are different. Vice Mayor McGoffin stated after the districts are formed, there would still be paperwork and work to maintain them with Mr. Loucks stating any application fees collected by the City are only intended to cover costs up to forming the districts, noting once the districts are formed, they are responsible for funding themselves. Vice Mayor McGoffin then noted forming districts requires a lot of time and paperwork.

Mayor King asked Mr. DeSpain about the time spent on the application alone and whether \$3,500 could cover it with Mr. DeSpain stating it would be more than \$3,500 and could cost up to \$50,000, noting this would encompass attorney time, the City Manager's time and Staff's time in reviewing those CFDs. Mayor King then spoke about how long it's taken just to get to this point and stated there has been a cost to the City and he feels the Council needs to stop the burden on taxpayers for this. Councilmember Moncada stated none of those expenses are reimbursable.

Councilmember Cook stated he was not a CFD expert and would have to defer to the experts, adding when Mr. Guckenberger applied for his contract to be the bond counsel, Mr. Guckenberger indicated application fees run from \$25,000 up to \$150,000. Councilmember Cook then stated he doesn't think a \$50,000 application fee is excessive. Councilmember Cook then stated he was not certain he wanted to move forward on the policies, adding the Council had Revitalization Districts dropped on them in the middle of December just before the holidays and it wasn't clear to him what impact Revitalization Districts will have as opposed to whatever special districts El Dorado was proposing prior to that. Councilmember Cook then stated because Revitalization Districts are different, they will have different consequences to the City and he didn't think the answer was in the room right then. Councilmember Cook then stated even though he agreed with the fees, he was not willing to move forward not knowing what the Revitalization Districts' consequences are going to be, especially since the districts will be populated by the landowners, which are the developers.

Councilmember Konrad stated he was not pleased with the lack of response from Mr. Guckenberger, adding he thought Mr. Guckenberger's response would be quicker since he was hired to guide the Council through this process. Councilmember Konrad then stated he was hesitant about moving forward without pertinent information and would like to get the answers to Mr. Loucks' questions, adding he felt the Council should wait until the next Council meeting. Councilmember Konrad then stated Mr. Guckenberger was brought on at the recommendation of El Dorado and if there's an argument the Council is doing something wrong by not moving forward, he would disagree, again stating he thinks the Council should wait and get the answers they need, but he would strongly suggest the Council come back in 2 weeks and vote on this.

Mayor King asked Mr. Loucks what his recommendation was with Mr. Loucks stating he would recommend the Council tabling the item for 2 weeks.

Mayor King stated he would like an explanation as soon as possible on why Mr. Loucks had not heard back from Mr. Guckenberger with Mr. Stephens stating he would pass on that information.

Councilmember Moncada moved to approve the policies and procedures for Special Taxing Districts. Seconded by Councilmember Lambert. Motion failed 5-2 with Mayor King, Vice Mayor McGoffin, Councilmembers Boyle, Cook and Konrad voting nay.

Vice Mayor McGoffin moved to table the adoption of the City of Benson, Arizona Policy Guidelines and Application Procedures for Special Taxing Districts until the next Council meeting. Seconded by Councilmember Boyle. Motion passed 5-2 with Councilmembers Lambert and Moncada voting nay.

4. **Review of City Finance with emphasis on October and November financial results and the City's financial position at November 30, 2015**

Finance Director Dustin DeSpain reviewed Citywide financial highlights stating the City has put back \$100,000 resulting in the City's unrestricted cash sitting at \$1.4 million and the bond proceeds are still at \$1.07 million. Mr. DeSpain then stated the City's revenues exceeded expenditures by \$119,000 for the month of November and exceeded expenditures for the fiscal year by \$93,000, adding last year at this time, the fund balance was actually down \$130,000 and noted this has been a complete turnaround. Mr. DeSpain then stated monthly revenues citywide were \$816,000 for November and are \$4.2 million year-to-date, which is a \$698,000 increase from last year. Mr. DeSpain then stated citywide monthly personnel costs for November were \$364,000, which is an increase of \$549,000 compared to November of last year and other citywide expenditures were \$323,000 for the month which is an increase of \$105,000 compared to last November.

Mr. DeSpain then reviewed the General Fund stating revenues for the month of November were \$482,000 and were \$2 million year-to-date which is an increase of \$231,000 from last year. General Fund personnel costs for November were \$234,000 which is a decrease of \$5,000 from last November and other General Fund expenses for the month of November were \$138,000 which is an increase of \$77,000 from November of last year, adding the increase is primarily due to maintenance and grants the City has had to contribute to. Mr. DeSpain then stated General Fund revenues exceeded expenditures by \$110,000 for the month of November and the General Fund year-to-date fund balance was \$93,000, which was a \$223,000 increase from last year at this time.

Mr. DeSpain then reviewed Enterprise Funds stating the Gas Fund revenue for the month of November was \$59,000 and year-to-date was \$210,000 and the fund balance was \$34,000, which is not enough to maintain if infrastructure is needed, so Staff will be looking into this; the Water Fund revenue for the month of November was \$50,000 and year-to-date was \$293,000 and the fund balance was only \$48,000; the Wastewater Fund revenue for the month of November was \$57,000 and year-to-date was \$287,000 and the fund balance was \$86,000, adding that will change due to the significant upcoming repair at the treatment plant in the amount of approximately \$65,000. Councilmember Cook asked if the \$65,000 would come out of the capital projects fund or the wastewater fund balance with Mr. DeSpain stating the repair is a capital project that was approved during the budget season and will show up in the capital funds budget, but will be paid for by wastewater funds. Mr.

DeSpain then stated the expenditure could be taken out of bond proceeds to reimburse the City if needed, but the wastewater fund balance will decrease by approximately \$65,000. Mr. DeSpain then continued stating the Sanitation Fund revenue for the month of November was \$49,000 and year-to-date was \$246,000 and the fund balance was \$50,000. Mr. DeSpain then stated the County's invoice had not been received for the month of November until late December and had not been reflected in this report. Mr. DeSpain then stated the County raised their rates and would be implementing 3 more rate increases this year, adding the City will begin to see the Sanitation fund balance enter into negative numbers if something isn't done. Mayor King stated this is something that will need to be worked on with Mr. DeSpain agreeing. Mr. DeSpain then stated Cochise County needs to aggressively increase their fees. Councilmember Konrad asked if there had been any more discussion about the City taking over the solid waste facility in Benson with Mr. DeSpain stating the County issues an RFP (Request for Proposal) and he didn't know if they had received any responses, as they reissued an RFP for entire the Sanitation program to be taken over by private industry. Mr. DeSpain then stated in the past, the County offered the Benson transfer station to the City, but the cost to maintain it scares him, adding the cost to fix or upgrade the slide on the compactor is about \$1 million. Mr. DeSpain then stated the City didn't have to take over the transfer station, but the County is looking to privatize sanitation, adding he only knows of 2 companies could handle it and the privatization would probably increase sanitation fees dramatically.

Mr. DeSpain then continued, stating the Golf Course Operations fund balance was -\$9,000 for the month of November and was -\$120,000 year-to-date, compared to the -\$90,000 year-to-date last November and the Golf Course Food & Beverage fund balance was -\$4,000 for the month of November and was -\$16,000 year-to-date, compared to -\$17,000 year-to-date last November. Vice Mayor McGoffin stated she knew the road construction was going to cause problems with Councilmember Moncada stating if there aren't any revenues, there shouldn't be the expenses. City Manager William Stephens stated Director of Golf Joe DeVecchio was present should they have questions, adding the Golf Course has had some repair expenses that were necessary. Mayor King stated he knew the Golf Course had 2 tractors breaking down and that the equipment at the Golf Course was old and needed to be repaired. Mayor King stated he knew about those problems and would defend the repairs and the Golf Course, adding he knows the road construction is affecting it and he is hoping it will turn around, adding he is confident it can be done and he hopes to see more positive things happening.

Councilmember Konrad suggested having Mr. DeVecchio brief the Council next month on the Golf Course, addressing the breakdowns and consequences of those and giving an overview of what's happening. Mr. DeVecchio then addressed Council stating he sent a report to Council, adding expenses at the Golf Course have been reduced by \$27,000 over last year, adding the Golf Course is down in revenue and is down 1,500 rounds from last year, but had the rounds remained the same, the Golf Course would be well below last years' loss. Mr. DeVecchio then stated the reduction in rounds is definitely due to the construction, adding he had 14 clubs cancel multiple outings and a major outing cancel last week all due to construction, noting people don't want to spend 2 hours driving one way or the other. Mr. DeVecchio stated they are working on some possible cures and once the actual construction is done, he thinks the paving portion of the project won't be as detrimental. Mr. DeVecchio then stated again, the Golf Course has cut expenses and are down to bare bones in maintenance. Mr. DeVecchio then stated the Golf Course crew is constructing a new bunker, which will grab some play from Tucson and the surrounding areas because it will be the only bunker in Arizona, and they are also working on the cart paths, noting the estimate for the paths was over \$200,000, and the crew is getting it down for fuel costs. Mr. DeVecchio stated things are getting done and in the meantime, they are trying to come up with some way to get the clubs back down here. Mayor King asked Mr. DeVecchio to speak about the equipment that has gone down with Mr. DeVecchio stating the only equipment that hasn't broken are the greens mowers, which are only 2 years old, adding every other piece of equipment was used when the course was built and is 16-18 years old and are failing. Mr. DeVecchio stated one tractor went down and another tractor needs to be repaired, as it can only go forward in 3rd gear and only has 1 gear in reverse. Mr. DeVecchio then stated there are also two gators that are down, needing engines rebuilt; one of the rough mowers is down, but it is not needed in winter, adding the Golf Course does have two good working greens mowers, two good working fairway units and one rough unit, so they can get by with that, but he would prefer to have the other utility equipment working.

Mr. DeSpain then reviewed sales tax stating in November the City retail sales tax dipped, but noted a 2-month delay in revenue, adding the Council is looking at September tax collections. Mr. DeSpain stated the City won't

see Black Friday and those retail sales tax collections until January, but noted the City is still getting more than in the past and the 1% sales tax is definitely benefitting the City. Mr. DeSpain then stated Bed Tax is holding at about \$5,000 a month, adding the City usually didn't see any increase until February, March and April. Mr. DeSpain then stated Construction Sales Tax flat-lined at \$4,000-\$5,000, but noted the City will see some Construction Tax from the bridge project because the bridge at the San Pedro River is in the City limits, adding it should be a significant amount, due to the project costing \$1 million. Mr. DeSpain then stated Total City Sales tax dropped due to September lower revenue and State sales tax flattened out to about \$37,000. Mr. DeSpain then stated the City will see what holds going forward as new proposed legislation has a lot of things affecting municipal revenues. Vice Mayor McGoffin noted the recent record-breaking Powerball lottery and asked if the City saw much lottery revenue anymore with Mr. DeSpain stating he hasn't seen any since he was hired.

DEPARTMENT REPORTS: No comments from Council.

ADJOURNMENT:

Councilmember Moncada moved to adjourn the meeting at 8:07 p.m. Seconded by Vice Mayor McGoffin. Motion passed 7-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk