

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JANUARY 26, 2015 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 7:00 p.m. with the Pledge of Allegiance. Mayor King then introduced Pastor Michael Gherardini from the United Christian Faith Ministries who offered the invocation.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Lori McGoffin, Councilmembers Pat Boyle, Jeff Cook, Joe Konrad, David Lambert and Peter Wangsness (via phone).

EMPLOYEE RECOGNITION: None

PROCLAMATION: None

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Diane Jones addressed Council regarding Councilmember Wangsness not being physically present in Benson for 9 months. Ms. Jones stated Councilmember Wangsness was not available to his constituents to discuss questions or problems for 3/4 of the year and has not been available to fellow Councilmembers to discuss his, theirs or the constituents' concerns. Ms. Jones then asked why Councilmember Wangsness accepted a Council seat and decided not to represent the people in Benson. Ms. Jones then stated Councilmember Wangsness is paid \$200 a month as a Councilmember for talking on the telephone during Council meetings, adding the City has spent \$1,800 for the privilege of hearing his voice twice a month with no representation of the public. Ms. Jones then asked if the Council was content and pleased with Councilmember Wangsness' fulfillment of his sworn duties and asked if the Mayor had confronted Councilmember Wangsness with reference to his absence. Ms. Jones then stated she has concluded that Councilmember Wangsness' seat needs to be replaced, adding if Councilmember Wangsness resigns, his term will stop and can be filled rather quickly at no expense to the City. Ms. Jones then stated if the people vote to have another recall election, it will cost the City another \$15,000 and will take time to finalize, adding it may be September before anything could be done, meaning another \$1,800 will be paid to Councilmember Wangsness in addition to the cost of the recall election. Ms. Jones then stated she was respectfully asking the Mayor and the faithful Councilmembers address, review, comment and report on this unwanted situation.

CITY MANAGER REPORT:

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

Tuesday, January 27, 2015	- Community Watershed Alliance, 6:30 p.m., City Hall
Saturday, January 31, 2015	- City Council Retreat, 9:00 a.m., Benson Community Center
Monday, February 2, 2015	- Benson Economic Development Committee, 6:00 p.m., City Hall
Tuesday, February 3, 2014	- Planning & Zoning Commission, 7:00 p.m., City Hall
Monday, February 9, 2015	- City Council Meeting, 7:00 p.m., City Hall
Tuesday, February 10, 2015	- Library Advisory Board, 4:00 p.m., City Library

NEW BUSINESS:

1. Discussion and possible action on the Consent Agenda

- 1a. Minutes of the January 5, 2015 Special Meeting
- 1b. Appointment of Chris Moncada to the Benson Planning & Zoning Commission
- 1c. Reappointment of Dell Mellentine to the Industrial Development Authority (IDA) of the City of Benson
- 1d. Contract for Magistrate Services between Bruce Staggs and the City of Benson
- 1e. Invoices processed for the period from December 31, 2014 through January 15, 2015

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

2. Discussion and possible action on Resolution 4-2015 of the Mayor and Council of the City of Benson, Arizona, requesting of Cochise County that it sell property (TPN 123-22-143) to the City of Benson

Public Works Director Brad Hamilton stated he has been working with owners on Circle Drive to acquire the property that is mostly the roadway, adding it is currently privately owned and the owners have no legal access to their properties and therefore, can't get mortgages or try to sell to someone who would need a mortgage. Mr. Hamilton then stated the interest in this property is to acquire legal access, adding the County has requested that the City ask for the parcel. Mayor King asked if this was in the budget with Mr. Hamilton stating it was not, but the cost of \$10.00 was minimal.

Councilmember Lambert stated he had looked at the property and asked if the City owned all the property around it with Mr. Hamilton stating the City did not. Mr. Hamilton then stated he had discussions with surveyors in the area regarding the need for a legal description. Councilmember Lambert asked if there were services on the property with Mr. Hamilton stating the City had utilities on the property.

Councilmember Wangsness then stated anytime the Council can spend \$10 to make life easier for the citizens, he was all for it.

Councilmember Cook then stated he would like to ask Mr. Hamilton the questions he had asked last week, beginning with who would be paying for the surveying to get the legal description with Mr. Hamilton stating the homeowners would pay for it. Councilmember Cook then stated he would assume a quit claim deed would be completed for the transfer of the property from the County to the City and asked if there was any kind of escrow or other costs the City might incur with City Attorney Paul Loucks stating it would depend on what the Mayor and Council would like to do, adding typically, in the sale or purchase of property like this, the City could purchase a title policy, but his understanding is that the subject property is the product of a tax foreclosure, so the quality of the title shouldn't be an issue. Mr. Loucks then stated he hasn't had a chance to review the tax lien foreclosure process, but there shouldn't be the need for escrow since the seller is Cochise County and the buyer is the City, for nominal consideration. Councilmember Cook asked if instead of purchasing title insurance, the City could ask the County for a guarantee with Mr. Loucks stating the City could ask for a general warranty deed, which would have the County ensure there is a title. Councilmember Cook stated he thought that would be in the best interest of the City and then stated he understood the sale would remove the property from the tax rolls and that the City would also be responsible for the road maintenance with Mr. Hamilton stating the City will be declaring the property a primitive road, so there would be no required maintenance. Councilmember Cook then stated the City Council should ask for a warranty deed with Mr. Loucks stating the proposed resolution includes a line for the City Manager to negotiate and the Council could require a general deed or a special warranty deed as one of the terms of the negotiation. Mr. Loucks then stated the Council could also decide not to accept the property at the time it is presented.

Councilmember Cook then moved to approve Resolution 4-2015, directing the City Manager to negotiate and request a general deed or special warranty deed. Seconded by Councilmember Wangsness. Motion passed 7-0.

3. **Discussion and possible action on Resolution 5-2015 of the Mayor and Council of the City of Benson, Arizona, recommending approval of the issuance of a Series 10 (Beer/Wine Store) Liquor Licenses at Giant, 104 E. 4th Street, Benson, Arizona**

City Clerk Vicki Vivian stated the Council recently processed a similar request for a liquor license application, adding this one is for Giant, located at 104 E. 4th Street. Ms. Vivian then stated the procedures have been followed according to ARS §4-201, with no written arguments in favor of or opposed to the issuance of the license being received and the process is now at the step where the governing body of the City or Town shall then enter an order recommending approval or disapproval within sixty days after filing of the application. Ms. Vivian then stated once Council makes a recommendation, she will forward the proper documents to the Arizona Department of Liquor Licenses & Control. Mayor King asked if there was anyone present from Giant. Ms. Vivian stated there was not. Councilmember Konrad stated this request is basically a transfer with Ms. Vivian stating it is a new license, but there are no changes from the current operations. Councilmember Cook stated he wished the applicant was present, adding he went to Giant and they were still selling alcohol after the sale of the property went through and his understanding was that there needed to be a transfer of the existing liquor license or as indicated in the Council packet, an interim liquor license. Councilmember Cook then stated when he asked to see this license, he was told it was posted on the window, but that someone from the County came and removed it, adding he was puzzled by this and was thinking it was removed by someone from the City in order to make copies of the license for the Council packet. Ms. Vivian stated when the City receives a liquor license application from the State, a poster giving the date and time the public hearing will be held, along with a redacted copy of the application is posted on a window or a prominent location at the business for 20 days before the item comes back to Council for their recommendation, adding no one from the County would have been involved in the process. Councilmember Cook then asked about the seller having an interim license for the buyer instead of the buyer having the interim license and then stated he was wondering if the other information on the application was correct, adding the application includes a monthly lease payment of \$256,000 per month which makes him wonder how else is correct or not. Vice Mayor McGoffin then stated the Council's responsibility is to simply make a recommendation on whether liquor should or shouldn't be sold at the business location and stated it is up to the State Liquor License Board to verify the information on the application. Councilmember Cook stated Vice Mayor McGoffin had a good point and he was maybe being overly diligent. Vice Mayor McGoffin then moved to approve Resolution 5-2014. Seconded by Councilmember Konrad. Motion passed 6-1 with Councilmember Boyle voting nay.

4. **Discussion and possible action regarding the contract between Bowlin Travel Centers, Inc. and the City of Benson for the billboard advertisements along Interstate 10**

City Manager William Stephens stated this is the annual lease for the billboards on Interstate 10. Mayor King asked if there was a way to measure the impact of the billboards with Mr. Stephens stating there was no way to determine if the billboards brought people into Benson. Mayor King asked if the billboards were still lit with Mr. Stephens stating the billboards are not lit, adding it would be cost prohibitive to do so. Councilmember Konrad stated he didn't see the benefit for the cost of the billboards, especially in light of the budget situation. Vice Mayor McGoffin stated she thought the billboards were too close to Benson and she thought it would be better if they were a little further away, maybe closer to Willcox and Tucson, adding they are already in Benson when they see the billboards. Vice Mayor McGoffin then stated she didn't think where the billboards are is cost efficient, but if they were further out, they might be worth it. Councilmember Cook stated he agreed with the assertions about the benefits of the billboards, but he was also in agreement that they are in a bad location and he thinks they might be ineffective. Councilmember Cook then stated the Council might be better off letting this contract expire and then looking for billboards with a better location. Councilmember Wangsness agreed with Councilmember Cook, stating the billboard for eastbound traffic is on the opposite side of the road and is easy to miss, adding he missed it twice when he was looking for it the first time, and the billboard for westbound traffic has the bottom half obscured by trees. Councilmember Boyle moved to let the contract between Bowlin Travel Centers, Inc. and the City of Benson for the billboard advertisements along Interstate 10 expire and to renegotiate it at a later time when things improve and with better locations. Seconded by Councilmember Konrad. Motion passed 7-0.

EXECUTIVE SESSION: Pursuant to A.R.S. §38-431.03 (A)(3), for discussion or consultation for legal advice with the attorney or attorneys of the public body regarding the proposed text amendment regarding B-1 District uses and associated off-street parking requirements.

Vice Mayor McGoffin moved to enter into an executive session with the Mayor and Council, the City Manager, the City Attorney, the Public Works Director and the City Clerk at 7:27 p.m. Seconded by Councilmember Lambert. Motion passed 7-0.

Council reconvened at 8:02 p.m.

5. **Discussion and possible action on Ordinance 574 amending the City of Benson Zoning Regulations, Ordinance No. 243, as amended, to: add the Use Broadcast Studio to the list of permitted uses of the B-1 Neighborhood Business District, to define said Use and to establish Site Development Standards relating to off-street parking requirements**

Mayor King asked if there was any discussion. Vice Mayor McGoffin stated she was happy with what Planning Technician Michelle Johnson came up with, adding she thinks Ms. Johnson did a good job. Councilmember Lambert stated he spoke to Ms. Johnson to go over how she came up with what she did, adding he thinks the way it's written is in the best interest of the City and everyone in the B1 district.

Councilmember Cook stated there are 3 different parts to this matter and they all perform different functions. Councilmember Cook then stated adding broadcast studios to the Zoning regulations makes a great deal of sense and the ordinance also includes a definition for a broadcast studio. Councilmember Cook asked CAVE FM Manager Paul Lotsof if he had read the definition with Mr. Lotsof stating he had read what was in the Council packet. Councilmember Cook stated the Council discussed off-street parking with City Attorney Paul Loucks stopping Councilmember Cook and reminding him of the admonishment regarding executive sessions and then stated Councilmember Cook could discuss the off-street parking issue, but could not disclose what was discussed in the executive session. Councilmember Cook stated he could state his perceptions, adding he personally felt that if Mr. Lotsof were to move a 2,000 sq. ft. building onto his property and the one parking space per 200 sq. ft. came into play which would require 10 parking spaces, it would be excessive and he didn't think Mr. Lotsof would need 10 parking spaces. Councilmember Cook then stated his perception was that the Council did not disagree with him. Councilmember Cook then stated the Council doesn't know what size building Mr. Lotsof will put on the property, but the mechanism in place to deal with the number of required parking spaces is the Board of Adjustment, adding he understands Mr. Lotsof could request a variance from the Board of Adjustment and could have that process completed in 30-45 days. Councilmember Cook then stated since this has been dragging on for 5 years, he thinks this is a reasonable amount of time for Mr. Lotsof to get a variance to lower the number of parking spaces the building would require. Mayor King then stated the Council would like Mr. Lotsof to meet with Staff, adding Mr. Lotsof could start going over what he wanted because this would be a benefit to both the City and Mr. Lotsof.

Mayor King then stated it's important that Mr. Lotsof meet with Staff so they can get a better understanding of what Mr. Lotsof is trying to do and the this issue can continue to go forward. Mr. Lotsof addressed Council stating he thinks the Staff is pretty aware of what he is trying to accomplish, adding if the Staff wants to meet with him, he is willing to do so, but he thinks Staff's ideas are quite different. Councilmember Boyle then confirmed with Public Works Director Brad Hamilton that he would contact Mr. Lotsof to set up a meeting.

Councilmember Konrad then stated he thought this ordinance was a step in the right direction and it would be beneficial for everyone involved, and then added that getting Mr. Lotsof and Staff together to move forward would be a benefit to all.

Councilmember Cook then stated parking is pretty much universal for studios, whether it be a dance studio or a karate studio and stated if Mr. Lotsof felt the number of required spaces were too much, he would have to initiate the variance process with the Board of Adjustment, noting the City couldn't initiate the process for Mr. Lotsof.

Vice Mayor McGoffin stated Mr. Lotsof could be working on setting up the trailer and getting it ready to go while he was applying for the variance, adding she was told he could do that because the parking lot could be done at the very end of the project. Mr. Lotsof stated that was not what he was told.

Councilmember Cook asked for Staff to comment with Mr. Hamilton, after conferring with the City Attorney, stating a conditional type plan could be in place where certain requirements kick in at different times according to where Mr. Lotsof is in the variance process.

Vice Mayor McGoffin moved to approve Ordinance 574. Seconded by Councilmember Wangness. Motion passed 7-0.

6. **Review of City Finances with emphasis on November and December financial results, and the City's financial position at December 31, 2014**

Finance Director Megan Moreno addressed the Council stating she had given out the financial results for the months of November and December, but would like to focus on the month of December. Councilmember Cook stated he would like to review the sales tax collections in November, adding the Butterfield Stage Days and the Biker Rodeo events were in October with Ms. Moreno explaining that the sales tax collections in October are distributed to the City in December and show up in December's financial results. Ms. Moreno then reviewed the City's financial position for December stating the City is now half way through the fiscal year. Ms. Moreno then stated the City's unrestricted cash shows an increase from the October amount of \$660,000 and is now at \$899,000. Ms. Moreno then stated last December the unrestricted cash was \$990,000, adding the City is closing in on that gap. Ms. Moreno then stated bond proceeds are \$954,000. Ms. Moreno then explained bonds for new Councilmembers, stating bond proceeds are funds that are set aside, separate from the City's unrestricted cash, which are used for capital projects. Ms. Moreno then stated revenues exceeded expenditures by \$5,000, adding year-to-date the City is still in the negative and is down \$127,000 compared to last December, but there is a turnaround of over \$400,000, which is largely attributed to budget cuts and furloughs. Ms. Moreno then stated citywide revenues were \$692,000 for the month of December and were \$4.16 million year-to-date, adding this does show a decrease of \$270,000 in overall revenues citywide from last December, but it is largely attributed to grant revenue and Construction sales tax, adding last year the City had a lot of grant revenue and this year hasn't received very much and then stated there also isn't much construction activity this year.

Ms. Moreno then stated personnel costs decreased for the month of December by \$38,000 and were down \$322,000 year-to-date, adding the actual furlough savings was \$119,000, but noted there have been some positions left vacant, adding not only has the City lost employees this year, but in the budget process, decided to leave some positions vacant. Ms. Moreno then stated as of December, all employees were required to take half of their required furlough days, noting for most employees, that meant taking 10 days and for public safety, it meant taking 5 days. Ms. Moreno then stated operating costs are down over \$200,000 year-to-date as well, adding not only were expenditures cut during the budget process, but a spending freeze was implemented two months ago, due to the City's depleting cash balance.

Ms. Moreno then moved to the General Fund stating revenues were \$396,000 which was an increase over December, 2013, adding noteworthy is that the City sales tax was up over \$30,000 for the month of December when compared to last year at this time. Ms. Moreno then stated State sales tax also increased along with State shared revenue increasing. Ms. Moreno then stated the property tax is showing a decrease of about \$108,000 but is strictly due to a timing issue and will be back up in January. Ms. Moreno then stated the personnel costs in the General Fund were down \$27,000 for December and were down \$183,000 year-to-date. Ms. Moreno then stated other expenses were up for the month, but still down \$116,000 year-to-date, adding this shows the City is saving money in both personnel and operating costs. Ms. Moreno then stated the fund balance for the General Fund was down \$276,000 for the year, but compared to where the City was last December, it is significantly better, adding last December the fund balance was \$538,000.

Ms. Moreno then addressed the Enterprise funds, which are the Gas Fund, the Water Fund, the Wastewater Fund and the Sanitation Fund, adding they all ended the month in the positive and are all operating in black

year-to-date as well. Ms. Moreno then stated she would like to stress, though, that this is based on day-to-day expenses and operating costs, but the City hasn't spent any utility fund money on capital projects for any utilities. Ms. Moreno then asked the Council to keep in mind that when replacements and upgrades are needed, they will take a big chunk of the revenue that is coming in. Ms. Moreno then stated no money has been spent on capital projects yet, but it is imperative that the City have money set aside in contingency funds for an infrastructure failure or an emergency. Councilmember Konrad verified that the year-to-date meant July through December with Ms. Moreno confirming it did. Councilmember Boyle then asked what was available to the City should there be an emergency with Ms. Moreno stating the City would basically be using bond funds first, adding that amount is \$954,000. Ms. Moreno then stated the unrestricted cash balance is the money combined for the entire City and includes cash available to spend for the General Fund and the utility funds. Councilmember Lambert asked when the last rate review had been done on the utilities with Ms. Moreno stating in 2006, there was a rate study and increase done on water and wastewater. Public Works Director Brad Hamilton stated the last rate increase for gas was done in 1995 and he believes the last rate change in sanitation was done in 2004. Vice Mayor McGoffin stated the sanitation was different because the City contracts for sanitation with Ms. Moreno stating the City pays Southwest Disposal a monthly payment as well as paying the County to dispose of the solid waste at the County transfer station. Ms. Moreno then stated there are also some personnel and administration costs associated with sanitation as well, adding the Sanitation Fund is operating well right now. Ms. Moreno stated there are a few things in the contract to be mindful of, adding every January 1, Southwest Disposal has the ability to raise their rates based on the CPI or 2%, whichever is higher, adding there was just an increase of 2% in effect for January, which was the second rate increase under this contract. Ms. Moreno then stated the contract also contains a provision for a fuel surcharge if fuel goes above a certain dollar threshold. Vice Mayor McGoffin asked if the City passed on the 2% increase with Ms. Moreno stating the Council would have to approve the rate increase to citizens, adding right now the City absorbs it. Councilmember Cook asked how long the City had been absorbing this increase with Ms. Moreno stating this is the second year under the current contract, but she would have to look at the prior contract to see if it was done before that. Mr. Hamilton stated the previous contract didn't contain a fuel surcharge, but there was an annual increase. Councilmember Cook stated if the City wasn't having budget problems, this probably wouldn't get his attention, but he would like to know how much of a rate increase the City has been absorbing. Ms. Moreno stated at this point, the Sanitation Fund is doing fine, adding the City doesn't really want to make money in that fund because there is no infrastructure to maintain or expenses the City needs to be preparing for. Ms. Moreno then stated the only thing she has discussed with Mr. Hamilton is that in the future, the City may want to build a contingency to buy recycling containers and implement a recycling program, again stating right now the fund is operating well and she wouldn't recommend a rate increase yet. Councilmember Konrad asked if there was any benefit to fuel prices being lower with Ms. Moreno stating the contract only contained a provision for a surcharge if fuel prices went over a certain amount and didn't contain any provision for fuel prices dropping.

Councilmember Cook then spoke about the golf course, stating he understood there have been various initiatives taken to save money and to make money and asked if there have been any benefit from those changes yet. Ms. Moreno stated the new Golf Director, Joe Delvecchio, has implemented some great changes and she thinks some of the results will show up in January. Ms. Moreno then stated for the month of December, revenues for the operations side were up about \$10,000 over the prior December, adding she wanted to also note that last year the City received the last donation of \$25,000 per month from the person who donated the golf course and this year, the golf course is completely on its own. Ms. Moreno then stated this means the golf course is already down \$25,000 in revenue compared to where it was last year, but it is still doing better than last year, explaining that year-to-date through December, the golf course is down \$114,000 overall, including both operation and food and beverage, but last year, it was down \$135,000. Ms. Moreno then stated this means the golf course is already outperforming last year by \$21,000 and coupled with the fact that the \$25,000 donation ended last year, they are really doing better by \$46,000.

Ms. Moreno then briefly reviewed sales tax, stating the City's retail sales tax for December was \$236,000 up compared to last December, which was \$206,000 and is up \$24,000 year-to-date. Ms. Moreno then stated the month of December is based off October sales, adding there are a lot of events in the area such as Butterfield Stage Days, the rodeo, the biker rodeo and Helldorado, which translates to the higher collections. Ms. Moreno then stated bed tax or the transient lodging tax, which is an additional 2% tax

charge on hotel and motel stays under 30 days, are pretty stagnant. Ms. Moreno stated for the month of December, bed tax was \$4,800 and is down from last December, which was \$7,900, adding this tells us that we had less people staying in hotels during the month of October. Ms. Moreno then stated bed tax is down about \$4,600 year-to-date, adding this is not a huge decrease, but we're also not seeing any increases. Ms. Moreno then stated Construction sales tax is ugly and will probably get even uglier, because the changes that have been made to the Construction sales tax go into effect on January 1, adding contractors will now use point of sale to pay those taxes instead of paying where the project is actually being done. Ms. Moreno stated the point of sale is where contractors purchase their materials and it most likely will not be in Benson, so the City will lose money there.

Ms. Moreno then spoke about the State retail sales tax collection, noting this is the City's portion received from the State, adding there have been small increases every year and it's following right in line with how it was the prior year, meaning it should continue to increase for the next couple months as well. Councilmember Konrad asked what causes the spike that is seen in February with Ms. Moreno stating the month of February is based on December sales, noting Christmas sales creates that increase. Ms. Moreno then stated purchases are made in the month of December and businesses have until a certain date in January to report and submit those collections to the State, who then distributes those collections to municipalities the following month, which would be February, adding there is a 2-month lag on collections. After no further questions or comments, Mayor King thanked Ms. Moreno for her report.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Vice Mayor McGoffin moved to adjourn at 8:34 p.m. Seconded by Councilmember Konrad. Motion passed 7-0.

ATTEST:

Toney D. King, Sr., Mayor

Vicki L. Vivian, CMC, City Clerk