

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD DECEMBER 8, 2014 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 Mike from the New Life Family Worship Center who offered the invocation.

**ROLL CALL:**

Present were: Mayor Toney D. King, Sr., Vice Mayor Al Sacco, Councilmembers Pat Boyle, Jeff Cook and Chris Moncada. Absent were: Councilmembers Ron Brooks and Peter Wangness.

**EMPLOYEE RECOGNITION:**

Mayor King recognized Melissa Tibbitts for 15 years of service with the City of Benson and Tim Brandenburg for 5 years of service with the City of Benson.

**PROCLAMATION:** None

**PUBLIC HEARING:** None

**CALL TO THE PUBLIC:**

Paul Lotsof, the manager of the CAVE FM radio station addressed Council stating for several years, he has been trying to replace the 50-year-old building with a newer one and encountered hardly anything except flack from the City Staff. Mr. Lotsof then stated the most recent event took place last Tuesday evening when the Planning & Zoning Commission unanimously recommended his proposed amendment to the City Code be turned down. Mr. Lotsof then stated it appears there are two basic issues with the first issue being that the amendment has legal flaws, adding it wasn't until the end of the meeting that he was told that the City's law firm had found problems. Mr. Lotsof then stated when he asked Planning Technician Michelle Johnson what the problems were, she told him that it was privileged information and he was not allowed to see the memorandum from Mesch, Clark & Rothschild. Mr. Lotsof then asked how resolution can be brought about if the purported defects are a secret and stated if there are problems, they should be resolved, adding secrecy fixes nothing. Mr. Lotsof then stated the other problem voiced by the commissioners boiled down to a hard-nosed legalistic stance that if they went easy on the radio station, they would have to give equal treatment to all other property owners and before they knew it, Benson would be in a state of disrepair. Mr. Lotsof then stated his response to that is much of Benson is already in a state of disrepair. Mr. Lotsof then stated he was asking for no special favors, adding he thinks all property owners should have the right to fix up their premises with a minimum of resistance from the City and the City should encourage upgrades and not prevent them. Mr. Lotsof then stated it appears that the mentality of the City's Codes is if a property owner is given a choice of improving their property first-class or of doing nothing, they will opt for first-class, adding that may be the case in San Francisco, but it's not the case in impoverished Benson because if people in Benson are given a choice of first-class or nothing, most will opt for nothing. Mr. Lotsof then stated the result of the codes is exactly the opposite of what was intended when they were written. Mr. Lotsof then stated nearly all of the Councilmembers have expressed interest in property rights and stated the codes that are presently on the books need to be given careful scrutiny, adding he believes that process is underway. Mr. Lotsof then stated he realizes it will take a lot of time to fix what previous Councils did wrong, but his problem is that his need gets worse with every passing day, adding he needs to replace the 1964 building immediately and he's waited long enough. Mr. Lotsof then stated he is hoping the Council will act on his proposed amendment on December 22 and if that meeting must be cancelled, he asked the Council to please schedule a special meeting a week later, adding time is of the essence because after January 1, the new Council will be seated and it is largely a reincarnation of a previous Council. Mr. Lotsof then stated he brought his situation to the previous Council's attention on many occasions and he was repeatedly ignored. Mr. Lotsof then stated he had one final comment,

stating if he couldn't get any relief from the building and zoning codes, he has no intention of further fighting the City, adding it is far easier and cheaper to pack up and leave. Mr. Lotsof then stated he didn't think he would have any problem finding a community that would welcome him, but if he left for another community, Benson would be losing a very valuable community resource. Mr. Lotsof then stated the Council must choose between hard-nosed enforcement of the codes and retaining Benson's only local broadcast service, adding he has confidence that the Council will make the right choice.

### **CITY MANAGER REPORT:**

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

- Tuesday, December 9, 2014 – Planning & Zoning Public Hearing regarding the General Development Plan, 7:00 p.m., City Hall
- Monday, December 22, 2014 – City Council Meeting, 7:00 p.m., City Hall
- Monday, January 5, 2015 – City Council Special Meeting, 7:00 p.m., City Hall  
Benson Economic Development Committee, 6:00 p.m., City Hall
  
- Saturday, December 13, 2014 – Festival of Lights – Light Parade, “Treasured Holiday Stories” hosted by the City of Benson, 6:30 p.m. There will be prizes given for 1st, 2nd and 3rd places.
- Saturday, December 13, 2014 – Christmas on Main hosted by the San Pedro Valley Chamber of Commerce, 9:00-5:00 p.m. at 4th and Land St., Christmas on Main has Santa and Mrs. Claus for the kids, on-stage entertainment all day long, vendors offering a wide variety of Holiday shopping ideas to choose from and food.
  
- Thursday, December 25 and  
Friday, December 26, 2014 – Christmas Holidays – City Offices Closed
- Thursday, January 1 and  
Friday, January 2, 2015 – New Year's Holidays – City Offices Closed

Mr. Stephens then stated for more events in Benson, the public could visit the City's website: [www.cityofbenson.com](http://www.cityofbenson.com) under “What to do Today.”

### **NEW BUSINESS:**

#### **1. Discussion and possible action on the Consent Agenda**

- 1a. Minutes of the November 10, 2014 Regular Meeting
- 1b. Appointment of Mindi Flores to the Benson Economic Development Committee (BEDC)
- 1c. Appointment of Jennifer Swindle to the Benson Economic Development Committee (BEDC)
- 1d. Invoices processed for the period from November 13, 2014 through November 26, 2014

City Clerk Vicki Vivian addressed Council stating the terms for Mindi Flores and Jennifer Swindle will need to be designated by Council and asked that any motion include designating the terms for one appointment to expire in 2015 and the other to expire in 2016 to continue the staggered terms as set by Council. Councilmember Moncada moved to approve the Consent Agenda with Mindi Flores' term expiring in 2015 and Jennifer Swindle's term expiring in 2016. Seconded by Councilmember Boyle. Councilmember Cook asked when the terms begin with Ms. Vivian stating the terms begin with the Council approval and will expire on July 31, 2015 and July 31, 2016. Motion then passed 5-0.

#### **2. Discussion and possible action on Resolution 31-2014 of the Mayor and Council of the City of Benson, Arizona appointing Bruce Staggs as the Benson City Magistrate**

City Manager William Stephens stated the City's currently appointed magistrate, Judge Joe Knoblock, decided not to run again in the recent election, adding Mr. Bruce Staggs was elected on November 5 and will be assuming the position as the judge in JP3 on January 1. Mr. Stephens then stated the City needs to appoint the

judge as the magistrate for the City and will need to enter into a contract, which is the next agenda item, with Mr. Staggs for the magistrate services. Mr. Stephens then stated this agenda item, Resolution 31-2014, appoints Mr. Staggs as our magistrate effective January 1, 2015. Councilmember Boyle moved to approve Resolution 31-2014. Seconded by Councilmember Moncada. Motion passed 5-0.

3. **Discussion and possible action regarding a contract for Magistrate Services between Bruce Staggs and the City of Benson**

City Manager William Stephens stated as he noted during the previous item, the City's currently appointed magistrate, Judge Joe Knoblock, decided not to run in the recent election and Mr. Bruce Staggs was elected on November 5 and will be assuming his position as the judge in JP3 and our magistrate on January 1. Mr. Stephens then stated the Council approved Resolution 31-2014 appointing Mr. Staggs as the magistrate and now the proposed contract for magistrate services is up for Council consideration, adding the proposed contract is similar to the contract that was approved by Council in 2007 and reflects the amendment Council approved in 2012 to include any Cost of Living Adjustments granted to City employees. Mr. Stephens then stated City Attorney Gary Cohen may have some additional information to provide to the Council. Mr. Cohen addressed Council stating paragraph 8 of the proposed contract discusses a 180-day termination provision, adding either party can give a 180-day notice to terminate. Mr. Cohen then stated that same paragraph also references the court consolidation agreement Benson has with Cochise County and that agreement has a 120-day termination provision. Mr. Cohen then stated he didn't think it was a problem for this agreement to have a 180-day termination and the other to have a 120-day termination, but to be consistent, the motion could be to approve the proposed contract with an amendment in paragraph 8 to reflect a 120-day termination clause instead of a 180-day termination provision. Councilmember Moncada asked if the proposed contract was the same contract the City had with Judge Knoblock with Mr. Cohen stating he used the previous contract's basic form, making some modifications he thought would be helpful. Mr. Cohen then stated the only issue Mr. Staggs brought to his attention was the 180-day termination vs. the 120-day termination provision in the agreement between the City and Cochise County. Councilmember Moncada moved to approve the contract for Magistrate services between Bruce Staggs and the City of Benson with the amendment in paragraph 8 to be changed from a 180-day termination provision to a 120-day termination provision. Seconded by Vice Mayor Sacco. Motion passed 5-0.

4. **Discussion and possible action regarding a Commercial Lease Agreement between the Benson Area Food Bank and the City of Benson for a portion of space upon real property located at 370 S. Huachuca Street, Benson, Arizona**

City Manager William Stephens stated in the Council packet is a letter, per the contract, from the Benson Area Food Bank requesting the continuation of the lease for the real property located at 370 S. Huachuca Street for the period beginning January 1, 2015 and ending December 31, 2015. Mr. Stephens then stated there have not been any issues with the lease of this property to the Benson Area Food Bank. Councilmember Moncada stated it is the least the City can do for the Food Bank since they do so much for the community. Vice Mayor Sacco moved to approve the commercial lease agreement between the Benson Area Food Bank and the City of Benson for a portion of space upon real property located at 370 S. Huachuca Street, Benson, Arizona. Seconded by Councilmember Boyle. Motion passed 5-0.

5. **Discussion and possible action regarding the cancellation of the December 22, 2014 Regular Council Meeting**

City Manager William Stephens stated this item speaks for itself and is at Council's pleasure. Councilmember Moncada moved to cancel the December 22, 2014 Regular Council meeting. Seconded by Councilmember Boyle. Motion passed 5-0.

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

Finance Director Megan Moreno addressed the City's financial position for October stating October doesn't look good on paper due to the month being a 3-payroll month, which results in an increase in expenditures.

Ms. Moreno stated 3-payroll months happen twice a year and this year, one of them happened in October. Ms. Moreno then stated the City's unrestricted cash dropped to \$660,000, adding bond proceeds also dropped due to a draw for about \$58,000, noting the draw was to reimburse for some capital projects done at the end of the fiscal year. Councilmember Moncada asked what those projects were with Ms. Moreno stating there were some telemeters for gas and water and some minor improvements to Lions Park, adding she couldn't recall them all off the top of her head. Ms. Moreno then stated for the month of October, expenditures exceeded revenues by \$240,000 resulting in a negative \$249,000 for the fiscal year, adding this compares to last year through October; however, there was one less payroll last year, so in comparing this year to last year, the City is actually doing better this year, again noting the 3-payroll month hit in November last year and hit in October this year. Ms. Moreno stated she wanted to make the point that the City is still doing better than last year.

Ms. Moreno then addressed revenues stating citywide revenues were \$742,000 for the month of October and were \$2.75 million for the year, which is a decrease from last year, but is mostly attributed to grant revenue and construction sales tax, which are both much lower this year. Ms. Moreno then stated personnel costs increased from October, 2013 due to 3 payrolls for the month; however, other expenditures for October decreased from last October and decreased from last year's year-to-date expenditures.

Ms. Moreno then moved to the General Fund, stating monthly revenues were \$391,000, adding a couple of key revenues to note are that the State sales tax and State shared revenue, which is our portion we get from the State, are showing good increases. Ms. Moreno then stated local revenues are actually showing a decrease compared to last year for City sales tax, but at the State level, we are seeing some increases, which is helping. Ms. Moreno then stated on the expenditure side, personnel increased compared to last October, again, due to the 3-payroll month and the fund balance year-to-date is down \$307,000, which is just in line with where we were last year at this time.

Ms. Moreno then addressed the Enterprise Funds, stating the Gas Fund showed a negative fund balance for the month and for the year, but as we move into the colder months, the revenues will pick up and help cover the overhead costs and payroll costs we have all year long. Ms. Moreno then stated the Water Fund is still looking good for the year-to-date numbers and the fund balance is positive, adding the same can be said for the Wastewater Fund and the Sanitation Fund as well. Ms. Moreno then stated the Golf Course Operations lost \$31,000 for the month of October and the Food and Beverage side lost \$4,000, adding year-to date, Operations is down \$91,000 and Food and Beverage is down \$14,000.

Ms. Moreno then stated per the request of Councilmember Cook, she added a third year to the slides for the Council to have 3 years to compare financial results. Ms. Moreno then stated the City is following along very nicely with last year, adding year-to-date City sales tax is down about \$15,000, but she is hoping the winter months will bring increased revenues and hopefully will exceed where we were last year. Ms. Moreno then stated Bed Tax is pretty much stagnant; right around \$5,000 every month and Construction sales tax still looks ugly, adding the City is still recovering from refunds we were required to pay out, noting Construction sales tax has been negative for past two months, but is now positive for the month of October.

Councilmember Moncada stated he wanted the Council and the audience to know that as of January 1, 2015, remodelers who are working on existing homes will no longer have to pay Construction sales tax, adding for a City like Benson with almost no new home construction and no commercial construction, we will see the Construction sales tax decrease until new home construction starts. Ms. Moreno agreed, stating there have been a lot of changes that will be implemented on January 1. Ms. Moreno then stated there are also changes with the Department of Revenue and changes to the filing frequency for some taxpayers, adding this may create a cash flow issue since some people who have paid monthly might switch to quarterly or annual payments. Ms. Moreno then stated it will be interesting to see how some of those changes will affect the City. Councilmember Moncada stated also in 2015, everyone that files TPT as a business, will have to renew their license every year, adding he thinks a lot of people will not realize they have to do that.

Ms. Moreno then briefly reviewed the total City sales tax, stating it is down compared to last year, but the major reason for that is the Construction sales tax refunds the City had to make. Ms. Moreno then stated the State retail sales tax is showing small increases and shows an increase every month over where it was the last two years. Ms. Moreno then stated in January, she will present the financial results for November.

**DEPARTMENT REPORTS:** None

**ADJOURNMENT:**

Councilmember Moncada moved to adjourn at 7:28 p.m. Seconded by Councilmember Boyle. Motion passed 5-0.

ATTEST:

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Toney D. King, Sr., Mayor

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Vicki L. Vivian, CMC, City Clerk