

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD FEBRUARY 11, 2013, AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Acting Mayor McGoffin called the meeting to order at 7:05 p.m. with the Pledge of Allegiance. Acting Mayor McGoffin then introduced Pastor Lupe Diaz of Grace Chapel who gave the invocation.

ROLL CALL:

Present were: Acting Mayor Lori McGoffin, Councilmembers Ron Brooks, David Lambert, Nick Maldonado, Chris Moncada and Al Sacco. Excused was: Mayor Toney D. King, Sr.

EMPLOYEE RECOGNITION:

Acting Mayor McGoffin recognized Paul Moncada for 5 years of service with the City of Benson. Acting Mayor McGoffin then stated Chief of Police Paul Moncada had actually served the City for 35 years.

PROCLAMATION: None

PUBLIC HEARING: None

CALL TO THE PUBLIC:

J.T. Moffitt addressed Council stating it seems there is no end to what some of them will do for City Hall. Mr. Moffitt then stated Councilmember Lambert was easy to understand with his pursuit for a position of power, while Councilmember Maldonado and Vice Mayor McGoffin didn't care if they got re-elected or not. Mr. Moffitt then stated he could only surmise that Mr. Nichols and Mr. Masee needed their votes, adding the majority of the Council has been puppets for City management for years. Mr. Moffitt then stated the Council is now faced with City Hall pushing Chapter 7 codes, which are formidable weapons in the hands of City management, adding he calls them a weapon because the codes give the City power to destroy any business or property owner they choose. Mr. Moffitt then stated the codes give Mr. Nichols and company this power and they will carry out vendettas as they have in the past, only now armed with court orders and police. Mr. Moffitt then stated the animosity from City management toward Stagecoach Trails and CAVE FM is well-documented and the City will undoubtedly use the new codes against them and others like them, then the lust for power will spread like the plague. Mr. Moffitt then stated this is a small town of 5,000 and these new codes are indicative of Chicago, where citizens have no rights and big government rules. Mr. Moffitt then stated Council tabled the vote to get an opinion from an outside source who will undoubtedly agree with Mr. Masee and they will then have someone to direct them on how to vote again. Mr. Moffitt then stated Councilmembers Lambert, Maldonado and Moncada and Vice Mayor McGoffin have gone along with every directive from City Hall and other outside sources, adding the only two Councilmembers who have not are Councilmembers Brooks and Sacco, who he respects for standing up for the citizens against big government time and time again. Mr. Moffitt then stated the Council is supposed to be the voice of the people of Benson and City Hall is to meet the wants and needs of the people of Benson, but instead the Council has been a rubberstamp for City management. Mr. Moffitt then stated he has yet to hear Council deny a single request from City Hall while witnessing them ignore the pleas of citizens and businesses and allowing the City to spend taxpayers' dollars like there is no end to it. Mr. Moffitt then stated he thinks Mr. Cox is the only Benson taxpayer in City management and asked why the Council listens to City Hall instead of the people who voted them in, adding Councilmember Maldonado was not chosen by the voters to be in that seat, but was chosen by the Council to fill the position, so he votes along with Council at every turn to repay them. Mr. Moffitt then stated Vice Mayor McGoffin's and Councilmember Moncada's close personal ties with City Hall are well-known and Councilmember Lambert has shown his love for big government over and over. Mr. Moffitt then stated he hopes the voters

of Benson will rise up and vote for Brian Crafts, Jeff Cook and Peter Wangsness who have answered the call for justice and to right the wrongs done by this Council and City Hall. Mr. Moffitt then predicted the second opinion on the Chapter 7 codes will come in backing the new codes and four members of the Council will use that opinion to pass the codes, then there will be a referendum to reverse that decision, adding it will be a landslide defeat for City management and Council will waste taxpayer dollars forcing a referendum in order for the voters to make their voices heard. Mr. Moffitt then stated if the Council listened to the citizens who voted them in office, they would know no one wants to give the City unlimited power to violate property rights and no one in this city of 5,000 wants Mr. Garcia knocking at their door armed with a court order allowing him to come into their home or business and levy fines against them. Mr. Moffitt then stated backed by this new law, the City will put liens on homes, businesses and properties and can force the sale of their homes and property if the fines are not paid. Mr. Moffitt then stated Mr. Garcia was quoted as saying the new Chapter 7 codes give the homeowners more protection and stated Mr. Garcia is so used to this Council accepting the smoke and mirrors he puts up that he actually made that ridiculous comment. Mr. Moffitt then stated Council doesn't need a second opinion regarding these codes, what they need is a conscience, adding the codes are a blatant violation of people's personal and property rights and it doesn't take a legal expert to see that, adding he read the codes and his conscience told him they are very wrong. Mr. Moffitt then stated the Council knows right from wrong, but choose to ignore their conscience and cop out to a second opinion, adding if they need an attorney to decipher the codes, they can't be good. Mr. Moffitt then stated the voting block on this Council has had their heyday, they have awakened the ire of this fine community and he hopes the election results create a new Council and gives the people of Benson their voice back.

CITY MANAGER REPORT:

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

- February 12, 2013 – Library Advisory Board, 4:00 p.m., Library
- February 16, 2013 – Historic Preservation Commission, 9:00 a.m., City Hall
- February 25, 2013 – City Council Meeting, 7:00 p.m., City Hall
- February 26, 2013 – Community Watershed Alliance, 6:30 p.m., City Hall

- February 18, 2013 – Presidents' Day – City Offices Closed

Mr. Nichols reminded those present of the continuing work on the Interstate 10/State Route 90 Traffic Interchange project and the Marsh Station project, adding up-to-date information can be found at www.azdot.gov. Mr. Nichols then stated two candidate forums would be held during the month of February with Acting Mayor McGoffin stating the VFW would host a forum on February 20 and the Chamber would host their forum on February 28, noting she will be out of town on February 28 and will be unable to attend that forum. Councilmember Brooks asked if the City had received a date for the I-10 ribbon cutting with Mr. Nichols stating it would be held in April and as soon as a definite date was set, the Council would be informed.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the January 12, 2013 Retreat
- 1b. Invoices processed for the period from January 18, 2013 through January 31, 2013

Councilmember Lambert moved to approve the Consent Agenda. Seconded by Councilmember Moncada. Motion passed 6-0.

Acting Mayor McGoffin then stated the Council would address Agenda Item 4.

4. **League of Arizona Cities and Towns contract for the City Manager hiring process**

City Manager Glenn Nichols stated a Memorandum of Understanding will be completed when Council sets the advertisement criteria, adding it lays out the parameters for the recruitment process and the total cost to the City will be \$5,500. Councilmember Brooks asked if this was something the Council could vote on tonight with the Council stating they could agree to the contract for the process with information on the advertised salary range being given to the League after the Council reviews it at the next Council meeting. Councilmember Moncada moved to approve the Memorandum of Understanding agreement with the League of Arizona Cities and Towns for the City Manager hiring process. Seconded by Councilmember Brooks. Motion passed 5-1 with Councilmember Lambert voting nay.

2. **Resolution 7-2013 of the Mayor and Council of the City of Benson, Arizona, appointing Election Officials for the Primary Election to be held on March 12, 2013 and the General Election to be held on May 21, 2013**

City Clerk Vicki Vivian stated on January 14, 2013, Council passed Resolution 1-2013 approving an Intergovernmental Agreement with Cochise County for election supplies and services. Ms. Vivian stated the County then contacted poll workers to confirm their availability for the City election days and this resolution appoints those officials and their respective duties. Ms. Vivian then stated she received a call from a Councilmember who asked about poll workers' residency and qualifications, adding she contacted the County and gave the information to the Council, noting the poll workers are all citizens of the City. Councilmember Brooks then asked if a background check was performed to see if anyone had any criminal records with Ms. Vivian stating all poll workers were qualified to be registered to vote, which would include having their civil rights. Councilmember Moncada then moved to approve Resolution 7-2013. Seconded by Councilmember Lambert. Motion passed 6-0.

3. **Jennella Drive Pre-Annexation Water Extension Agreement between Scott Allen Quick and Debra L. Quick and the City of Benson**

Public Works Director Brad Hamilton stated the Council had approved several of these agreements in the past but none had been done recently, noting new construction has decreased significantly. Councilmember Brooks asked about annexing the property and if it would change the agreement with Mr. Hamilton stating if the City annexed the property, it would have no effect on the contract, since the City would be required to continue providing water service. Councilmember Moncada stated no refund of the fee would be given due to any annexation. Councilmember Brooks then asked about backflow prevention devices with Mr. Hamilton stating there is a list of criteria for either industrial or commercial usage that would warrant a backflow prevention device to protect the water system. Councilmember Brooks then asked about the provision requiring the property owner to agree to participate in the proposed annexation process favorably to the City's position and if that was something the City could legally require if the property owner did not want to be annexed. Mr. Hamilton stated that provision is very common when municipalities offer to provide utilities outside their service area. Councilmember Brooks then stated he wanted to make sure the City wasn't violating the rights of the property owner with City Attorney Mike Masee stating the provision is very common in this kind of agreement where the municipality is expanding our water service area with the agreement, adding it is up to the City Council if they choose to approve it since the City doesn't have to expand water service beyond the City limits. Mr. Masee then stated as a way of recovering some of the costs of this water line, those people who are right on the City border are granted this opportunity to go ahead and buy in, but if they buy in they become part of our service area and the City is now committed to serve them in the future. Mr. Masee then stated in exchange for the property owner receiving the very valuable water utility, the City can require the property owner to vote favorably in the City's position if an annexation is proposed, adding it is legal to do so and the agreement will be recorded and affect the property and whoever owns it in the future. Councilmember Brooks then moved to approve the Jennella Drive Pre-Annexation Water Extension Agreement between Scott Allen Quick and Debra L. Quick and the City of Benson. Seconded by Councilmember Moncada. Motion passed 6-0.

4. **League of Arizona Cities and Towns contract for the City Manager hiring process**

This item was addressed after Agenda Item 2. See above for action.

5. **Review of City Finances with emphasis on December, 2012 financial results, the City's financial position at December 31, 2012, and discussion of expected future net revenue streams**

Finance Director Jim Cox addressed Council stating he would review the financial highlights for month of December. Mr. Cox began with citywide financial highlights, stating the City's balance decreased \$244,000 to \$1.4 million and the bonds proceeds balance is \$1.4 million. Mr. Cox then stated overall citywide fund balances decreased by \$192,000 for the month of December and are down \$419,000 year-to-date, adding the overall performance is very narrowly behind last year, but not alarmingly so. Mr. Cox then stated revenues were \$683,000 for the month of December, which is down \$138,000 compared to 2011, noting our sales tax revenues received were \$50,000 less however, they were \$100,000 more in the month of November and he really believes this is spillage between November and December, adding they are actually up over that two-month period. Mr. Cox stated the construction sales tax collections were down \$19,000, due to the wrap up of the construction on Interstate 10. Mr. Cox then stated grant revenues were down \$27,000, adding that is a matter of timing. Mr. Cox then stated personnel expenditures were \$387,000 for the month of December, which is \$202,000 less compared to 2011, but the costs were up \$215,000 for the month of November, noting the difference is due to payroll periods between November and December. Mr. Cox then stated total personnel costs are \$2.5 million year-to-date.

Mr. Cox then addressed the General Fund, stating other costs in the General Fund were \$488,000 for the month of December, which is virtually identical to last year, and \$2.85 million year-to-date. Mr. Cox then stated the General Fund revenues for December were \$285,000, which is comparable to 2011, and \$2.8 million year-to-date, which is an increase of \$18,000 compared to FY2011. Mr. Cox then stated personnel costs in the General Fund were \$250,000 for the month of December, down from last year, again noting the timing of pay periods in November and December. Mr. Cox then stated other costs were \$130,000 which is comparable to last year. Mr. Cox then stated the fund balance in the General Fund decreased \$188,000 for the month of December and decreased \$314,000 year-to-date, compared to \$400,000 negative last year at this time, so it is very similar to last year.

Mr. Cox then moved to the Enterprise funds, stating the Gas fund is up \$30,000 for the month of December and down \$14,000 year-to-date, adding it is rapidly turning around in the months of January, February and noted March will also be very profitable. Mr. Cox then stated the Water fund is up \$1,000 for the month of December and is up \$75,000 year-to-date, which is very good in comparison to last year. Councilmember Brooks asked if this was due to less rain with Mr. Cox stating that was a possibility, noting the City also accelerated our meter replacement program, adding the old water meters tend to run slow, which means people are not paying for the total amount of water they use and as we replace those meters, the revenues have consistently gone up. Mr. Cox then stated more water usage isn't necessarily happening, but the City has more accurate billing. Mr. Cox then asked Public Works Director Brad Hamilton how far along we were in the water meter replacement program with Mr. Hamilton stating about 50% of the old meters have been replaced. Mr. Cox then stated the Wastewater fund was down \$7,000 for the month of December and down \$35,000 year-to-date, adding this is due to the fact that we've had to pay for the haulage of the Whetstone Treatment plant to the tune of \$115,000 year-to-date. Mr. Cox then stated we're happy to say the City's truck is now up and running and we will not be seeing anywhere near that kind of expense going forward.

Mr. Cox then briefly addressed the Golf Course stating it was down \$9,000 for the month of December and down \$26,000 year-to-date, adding it was negative in December due to expenses that were unusual. Mr. Cox then stated they had the expense of \$20,000 in seed for the overseeding of the golf course, adding that was money very well-spent and there was also the expense of \$5,000 worth of unusual repairs to equipment. Mr. Cox then stated the year-to-date finances of the Golf Course have turned around, up \$96,000, adding that trend continues into January and February and he thinks Council will be pleased with the numbers they will see in those funds. Mr. Cox then stated restaurant changes are in process right now,

with a new menu and new hours. Councilmember Brooks asked why this change was done with Mr. Cox deferring to Director of Golf Operations Jay Tomerlin. Mr. Tomerlin addressed Council stating the changes were made to be more cost efficient, adding he has been looking at the finances for the last 6 months and while there were some good nights at the restaurant, there were also nights that were slow, as well as the previous hours requiring the employees being spread too thin, with some employees working 11 or 12 hours a day. Mr. Tomerlin stated this was bad for employee morale and it couldn't be addressed without increasing labor costs. Mr. Tomerlin stated it was also hard to get the word out that the restaurant was closed when private events were booked, noting the Golf Course has two weddings booked in March. Mr. Tomerlin then stated the most successful business plans he has seen with golf courses were catering to the golfers, which focused on lunch menus and hosting private events, adding he felt the best decision was to do the same and announced the new hours of 11 a.m. – 4:00 p.m., 7 days a week with a new menu that centered on sandwiches, salads and soups. Councilmember Brooks asked if the chef was the same with Mr. Tomerlin stating the chef did not change, adding he worked with the chef to find out what people came in and ordered and they changed the menu to reflect what most people liked. Councilmember Brooks then asked about advertising the new hours at the restaurant with Mr. Tomerlin stating employee health issues forced the change to be made sooner than he wanted to implement it and they are now working on updating their website and advertising to get the new hours out to the public. Mr. Cox then stated membership is continuing to expand, adding January was a great month and the Golf Course reputation is resulting in significantly more play which is going to make the economics look the way they should. Mr. Cox then stated the course conditions are excellent.

Mr. Cox then gave a quick summary of sales tax stating the State sales tax collections are steady with year-over-year slight increases. Mr. Cox then stated the City sales tax collections are improved over last year, not markedly, but by a couple of percentage points. Mr. Cox stated the Golf Course is on a positive financial trend. Mr. Cox then stated cash flow is extremely tight, adding this is the tightest he has seen it in 5 years. Mr. Cox then stated overall, the City's financial performance is slightly below recent years, noting as he has said before, the FY 2013-2014 cash flow will be a challenge since we continue to very slowly chew away at our cash reserves and he thinks prudence is going to be the word in the upcoming budget. Mr. Cox then said the bottom line is the City remains financially sound under current financial conditions, but any further economic downturns may result in some tough decisions having to be made. Mr. Cox then briefly reviewed the sales tax charts, stating in the General Fund, Council could see a positive trend over the past 3 months, adding it appears to be continuing into January and February. Mr. Cox then stated bed tax collections are a little above last year, but not up to the year prior and construction sales tax is disappointing, but he thinks the City should get used to that, since there is not a lot of new construction on the horizon. Mr. Cox then stated the total City sales taxes collections are slightly ahead of last year, but not enough to get excited about at this point. Mr. Cox then stated taking a look at the last 3 years of City retail sales tax collections, we can see we are just slightly ahead of last year, adding again, it's nothing to get excited about. Mr. Cox then stated the State retail sales tax collections have a little different form to them, and we can see it's very positive that the State is improving each year over the past 2 ½ years, adding the City has remained constant while the State has improved slightly.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Moncada moved to adjourn at 7:41 p.m. Seconded by Councilmember Maldonado. Motion passed 6-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk