

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD FEBRUARY 25, 2013, 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 Lupe Diaz of Grace Chapel who gave the invocation.

ROLL CALL:

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

EMPLOYEE RECOGNITION:

None

PROCLAMATION:

None

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Steve Sacco addressed Council regarding the proposed updates to the City Code Chapter 7, "Building" and Chapter 9, "Health and Sanitation." Mr. Sacco's comments will be retained with the Council packet.

Christopher Early addressed Council stating he would like to thank Steve Sacco for his comments, adding the Council needs to take what he said into consideration and apply it. Mr. Early then stated regarding Chapter 7 and the privacy issues, Council needed to apply it to everyone, not just one person.

Pat Boyle addressed Council regarding Chapter 7, stating in America, private property is the foundation of what we have and after earnings are taxed, people take what is left and provide a home, adding a person's home is a sacred thing and he feels it should be treated as such, even though it might not be much, because it is what they have. Mr. Boyle then stated people are taxed on their property and if they fail to pay the property taxes, the government can get an order for a tax sale and cast them out of their home, adding the home is not the government's property, but they have the power and authority to do that. Mr. Boyle then asked if people are really property owners, noting if they don't pay the tax even though their home might be paid for, it's not theirs, per se. Mr. Boyle then stated a code violation may result in a penalty and the property owner still has the cost to fix the problem, but maybe their only choice is to pay to fix it and they can't afford a permit or the fine, which could then lead to a lien and being forced from their home. Mr. Boyle then stated private property and other rights have been stripped away and asked Council to consider the proposed changes, adding they have a sacred obligation to everyone in town, to protect them from the very thing Council is doing. Mr. Boyle then stated Council needs to make sure they are protecting the rights of homeowners and treat everyone the same.

Jim Gray addressed Council regarding lighting the signs on the freeway, stating he thinks it is a good idea and will make the signs stand out and get a lot of traffic on the freeway. Mr. Gray then stated he feels the City Manager Salary should be between \$80,000 and \$100,000, adding he thinks \$137,000 for this small town is way too high. Mr. Gray then stated at the last meeting, the Council passed an agreement giving water to someone outside the City limits, adding during the discussion Councilmember Brooks made some

good points and asked pertinent questions, while it looked like half the Council was rolling their eyes. Mr. Gray then stated Councilmember Brooks was asking about the legality of it, because if the City wants to annex, that property owner would have to vote for the annexation, adding the Council used water to bribe the person that needed water to vote for annexation. Mr. Gray then stated the real problem is limiting the rights of the other property owners around that property, adding property owners have a right to vote on annexation and maybe other property owners don't want to be in the City. Mr. Gray then stated Councilmember Brooks' question was answered by stating Tucson approves agreements like this, but added Benson isn't Tucson, noting Tucson was recently reported as one of the 10 worst run cities in America and asked if we wanted to be like Tucson.

J.T. Moffett addressed Council stating he read the City Council candidate interviews and attended the candidate forum and Councilmember Maldonado was good at campaign rhetoric, asking who wrote it for him and what decisions Councilmember Maldonado has made resulting in progress and growth, adding Councilmember Maldonado has sold out to City Hall on Chapter 7 and in doing so, has sold out your fellow citizens leaving them with the only choice of voting him out of office. Mr. Moffett then stated Vice Mayor McGoffin was boastful in telling people she didn't care if she was re-elected or not and if people didn't like her decisions, they shouldn't vote for her. Mr. Moffett then stated at the forum, Vice Mayor McGoffin was asked what research she did with her response being to talk to Staff, adding it is hard to vote the will of the people when your source of direction and information come from City Hall. Mr. Moffett then stated Councilmember Lambert was quoted as saying there were a number of issues that need to be addressed that have not appeared on the agendas because of the current administration, adding Councilmember Lambert should know he and the Council are the current administration and Councilmember Lambert could have put those issues on the agenda with just one other Councilmember anytime he wanted. Mr. Moffett then stated Councilmember Lambert had suddenly become a big supporter of the incentive pay plan for the police officers that Mr. Moffett brought before Council a year ago, yet Councilmember Lambert never even tried to put it on the agenda, but now that Councilmember Lambert was running for Mayor, he couldn't wait to look into it. Mr. Moffett then stated Councilmember Maldonado, Vice Mayor McGoffin and Councilmember Lambert had all been willing participants in the propaganda campaign for the Chapter 7 codes, as they keep telling people, we need these codes in an attempt to brainwash the public, repeating lies from Mr. Garcia who tells everyone he can't do anything about their complaint until they pass the new codes, and the new codes are needed to protect the public. Mr. Moffett then asked who the public needs to be protected from, adding the Chapter 7 codes criminalize violations and we are supposed to make laws to protect the public from criminals, not laws that make the public criminals. Mr. Moffett then stated we do not need these codes, but what Benson does need is to cut spending on management salaries and to ease the financial burdens on the citizens, not pass new laws to burden them further and take more money from them. Mr. Moffett then stated if Council is so worried about cleaning up people's yards and homes, they should clean up their own backyard, meaning City Hall, and they didn't need new codes to do so. Mr. Moffett then stated the new codes are all about power and money, adding the City tried to raise sales tax and failed, tried to raise the bed tax and failed, tried to audit businesses to get more money and failed, then someone had a brainstorm to write new codes and add a lot of fines and costs, liens and seizures to rake in the money from the community to be able to afford to pay the City management even more money. Mr. Moffett then stated he would be holding a public awareness forum on Chapter 7 on March 6 at 7:00 p.m. so the public can know the truth. Mr. Moffett then stated everyone attending will get a copy of the new codes and see and hear a full presentation on the proposed codes without any smoke and mirrors and manipulation, adding there will be ample time set aside for a Call to the Public and everyone will have a chance to ask questions and give their opinion, encouraging everyone to attend who wants to know the truth about this quest for power and money.

Jeff Cook addressed Council stating he didn't intend to scold or snare during his comments, but would like to say he liked what Mr. Boyle said in his comments and the way he said it, adding it should appeal to everyone. Mr. Cook then stated the main reason he was here was that he had heard a number of times that Councilmembers have already decided to pay the new City Manager \$133,000, adding he attends all the Council meetings and hasn't heard that happen. Mr. Cook then stated if something has happened behind closed doors, he would like it on the record, or if Councilmembers individually or with other

Councilmembers have agreed to pay \$133,000. Mr. Cook then stated maybe the people of Benson are being lied to and if so, he would like to know by whom and would like the Council to point it out.

Kathy Suagee addressed Council stating in recent years people have been very wary of government being too large and assuming too many powers over Americans, adding ever since the Bush era with the passage of the Patriot Act, it seems to be a trend, but we need to look no further than our own City government to see this is a real threat on a local level. Ms. Suagee then stated Councilmember Lambert says Chapter 7 is for the people to assure them of their rights should they find City officials standing at their door, but her belief is that they should not find, out of the blue, someone standing at their doorstep. Ms. Suagee then stated she gives credit to those who on January 21 voted to table this Chapter and directed Councilmember Brooks to find a third party who could take another look at it, adding it was evident that many of the Council were still confused about what this document is, just as the public is. Ms. Suagee then stated the City of Benson employs more people than most other communities our size, comparing Benson to Willcox. Ms. Suagee then stated she did not advocate mass firings, but expects Council to use the money effectively that taxpayers provide for the City, adding Council can save money by lowering the City Manager's salary now and doing the same with other high paid positions. Ms. Suagee then stated it is one thing to pay a professional manager who has the college education and experience to fill this position, but Mr. Nichols only had a certificate for being a City Manager, not a college degree and he never should have been paid more than \$100,000. Ms. Suagee then stated to Mr. Nichols' credit, he only asked for \$90,000 and we have Councilmember Lambert to thank for giving him more at that time. Ms. Suagee then stated too many times, Council all votes yes, for any motion that is made. Ms. Suagee then stated Mr. Garcia has two associates degrees in drafting, but she doesn't see that it qualifies him for re-writing City codes. Ms. Suagee then stated she hoped the Council would use common sense, adding she appreciates the hard work some of the Council is doing in trying to grapple with Chapter 7. Ms. Suagee then stated Council should not feel they are under the gun to get something passed right away, noting it has been a year, but many on the Council are still are confused about exactly what it is, as the public is, asking is it a building code, an enforcement code, or a change to the zoning regulations.

Paul Lotsof addressed Council stating for the last 20 years or so, he and the newspaper were given paper Council packets and he has kept nearly all of them, but he discovered he would no longer be getting them since the Council now has iPads and would be getting the Council packets electronically. Mr. Lotsof then asked for the decision to be reversed. Mr. Lotsof then stated in Council packets, there has been a listing of the bills the City has paid, adding Mr. Cox has done a good job in making what the money was paid for clear to the public, but now the report has been changed and no longer shows what the purchase was for. Mr. Lotsof then stated he didn't see the purpose of the change, which is obviously for the worse, adding members of the Council have a responsibility to know what the money is being paid for and he thinks the public has that right also.

CITY MANAGER REPORT:

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

- February 26, 2013 – Community Watershed Alliance, 6:30 p.m., City Hall
- March 4, 2013 – Economic Development Subcommittee, 5:15 p.m., City Hall
- March 5, 2013 – Citizen's Review, 6:00 p.m., City Hall
Planning & Zoning Meeting 7:00 p.m., City Hall
- March 11, 2013 – City Council Meeting, 7:00 p.m., City Hall
- March 12, 2013 – Library Advisory Board, 4:00 p.m., City Library
- March 16, 2013 – Historic Preservation Commission, 9:00 a.m., City Hall
- March 25, 2013 – City Council Meeting, 7:00 p.m., City Hall
- March 26, 2013 – Community Watershed Alliance, 6:30 p.m., City Hall

Mr. Nichols then reminded those present of the continuing work on Interstate 10 and the Marsh Station project, adding up-to-date information can be found at www.azdot.gov. Mr. Nichols then stated Interstate

10 is scheduled to be closed from March 8 at 9:00 p.m. to March 9 at 6:00 a.m. to take down the Pantano Railroad Bridge. Mr. Nichols then stated adjustments to the schedule are made when necessary for weather and other issues, but the website would contain the latest information about the project schedule. Mr. Nichols stated a Council candidates' forum would be held at the Lion's Club on Thursday at 7:00 p.m., noting March 12, 2013 was the Primary Election Day and the VFW and the Chamber of Commerce were planning on hosting City Council Candidate Forums in the near future.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the January 28, 2013 Regular Meeting
- 1b. Invoices processed for the period from February 1, 2013 through February 13, 2013

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

2. Presentation by Zoe Richmond, Union Pacific Railroad, Director Public Affairs, of a grant to the City of Benson

City Manager Glenn Nichols stated Ms. Richmond was unable to attend and he would be addressing Council. Mr. Nichols then stated Union Pacific approved a grant to the Food Pantry in the amount of \$3,000 and presented the check to Larry Martinez of the Food Pantry. Mr. Martinez presented a plaque to Mr. Nichols to deliver to Union Pacific thanking them for their support. Mr. Martinez then thanked the Food Pantry volunteers for their work and attendance in representing the Food Pantry. Mr. Martinez then stated he will no longer be at the Food Pantry as he will be moving and thanked everyone in the community for the help they have given to the Food Pantry. Mayor King thanked Mr. Martinez for all he had done. Mr. Nichols then stated a grant with Union Pacific was also applied for by Tourism Director Bob Nilson to place some historic railroad logos along the visitor center on the walls in the parking lot and Union Pacific honored the City with a grant for \$5,000 to go toward that project.

3. Request sponsorship of the Benson Bobcat Booster Club Golf Tournament to be held on March 16, 2013

Benson Bobcat Booster Club President Tammy Fenn addressed Council regarding their annual golf tournament, stating they have 3 different levels of sponsorships and had sent in a letter to the Council asking the City to sponsor the tournament. Ms. Fenn then stated all proceeds from the tournament will go directly to Benson Bobcat athletes, adding in the past few years, major budget cuts affected the athletic programs throughout the State and it is the mission of the club to provide our student athletes with the funds they are in need of beyond what the school district is able to provide. Ms. Fenn then stated their goal is to provide for teams and individual athletes, so that any person with the desire to participate in the sport will be able to, regardless of their financial situation at home. Ms. Fenn then thanked the Council for their consideration. Councilmember Brooks moved to sponsor the tournament with a bronze level sponsorship. Seconded by Councilmember Maldonado. Motion passed 7-0.

4. Discussion and possible action regarding lighting the City of Benson billboard advertisements along Interstate 10

City Manager Glenn Nichols stated the cost to light the billboards would be \$75.00 per month per billboard. Councilmember Moncada asked if the lights would interfere with the dark skies with Mr. Nichols stating the lights used on the billboards are shaded to not interfere with the dark skies. Councilmember Brooks stated if the billboards were lit, it would advertise the City another 10-12 hours each day, noting it doesn't make sense to advertise a 24-hour Wal-Mart on signs that can't be seen at night, adding the lights may help bring more revenue from night travelers. Councilmember Maldonado agreed.

Mayor King asked if the cost was in the budget with Finance Director Jim Cox stating there were funds available in the line item to pay for the lighting. Councilmember Lambert stated he drove by the signs at night and they couldn't be seen, agreeing that lighting the signs would bring more business in Benson and that a 24-hour Wal-Mart needed a 24-hour advertisement. Councilmember Lambert then moved to approve lighting the City of Benson billboard advertisements along Interstate 10 at the cost of \$75.00 per billboard, per month. Seconded by Vice Mayor McGoffin. Motion passed 7-0.

5. Discussion and possible action regarding the City Manager Salary Range

City Manager Glenn Nichols stated Councilmember Brooks asked to discuss the salary range for the City Manager, adding the existing salary range was approved as part of the budget for the City for Fiscal Year 2012-2013. Mr. Nichols then stated the salary grade range for the City Manager is 72, with the minimum salary of \$89,890.12, the mid-point of \$112,362.65 and the maximum of \$134,835.18. Mr. Nichols then stated he had also given Council a section of the League of Arizona Cities and Towns salary survey, stating he took the salaries for the 15 cities with populations between 5,000 and 9,999, and the average salary for a City Manager for those communities was \$109,863.00. Councilmember Maldonado addressed Mr. Cook's comments during the call to the public, stating the Council had not decided on a salary, adding this is one of the rumors being spread. Councilmember Maldonado then stated in looking at cities with populations around 5,000, the salaries range from \$85,000 to \$130,000, adding the City falls in that range. Councilmember Moncada stated he thinks we should advertise the position from the minimum to mid-point and leave the maximum salary out, adding he would not want to pay a City Manager \$134,000. Councilmember Moncada then stated the salary agreed to would most likely fall between the minimum and mid-point range, adding it would probably be under \$105,000. Vice Mayor McGoffin agreed the advertisement should show the minimum to mid-point salary, adding at the City Council candidate forum, someone asked how the Council felt about paying a City Manager or City staff more than the governor makes so she did some research and found that Apache Nitrogen, with approximately 90 employees and 8 Department Heads, pays their CEO over \$100,000 and Benson Hospital, with approximately 100 employees and 22 Department Heads pays their top person between \$150,000 and \$204,000. Vice Mayor McGoffin then stated the City Manager salary paid now of \$109,000 is the mid-point for the cities the same size. Mayor King stated he said at the City Council candidate forum that he wouldn't pay a City Manager \$133,000, no matter how good they are, adding he thinks the salary is based on how much experience and education the selected candidate has and we should look at the very minimum of bringing someone in at \$89,000. Mayor King then stated we should advertise a salary range of \$89,000 to \$100,000. Councilmember Sacco stated compared to other cities in the area, the salary is too high. Councilmember Sacco then asked if the salaries shown include benefits with Mr. Nichols stating they did not. Councilmember Sacco then asked for a total salary amount including benefits with Mr. Nichols stating the salary and benefits were approximately \$140,000. Councilmember Sacco stated he would like to pay in the area of what other cities are paying for a City Manager. Councilmember Lambert stated he would like to clarify Ms. Suagee's earlier comment regarding the appointment of Glenn Nichols as City Manager, adding he brought up how much time Mr. Nichols was spending as City Manager and as Chief of Police. Councilmember Lambert then stated he suggested a salary and while he agreed with the Council's decision, he did not make the motion regarding the salary. Councilmember Brooks stated he spoke to a number of people and their figures are way below the figures discussed so far. Councilmember Brooks then stated he agreed with Councilmember Lambert's previous comment to use someone internally as an Interim City Manager and save \$100,000 a year, adding he thinks the Council needs someone to direct departments, but each Department Head knows their job, what needs to be done and had made their budgets and supplied them to the City Manager. Councilmember Brooks then stated the Council does need someone to represent the City at least 8 hours a day during the week. Councilmember Brooks then stated he had information someone gave him from the Better Business Bureau showing the City Manager of South Tucson made \$48,870 a year, adding he knows South Tucson is a depressed area, but he doesn't see Benson being a rich community either, such as Litchfield Park or communities around Mesa where they pay a higher salary. Councilmember Brooks then stated the salary when Mr. Nichols was appointed City Manager was bumped up due to a number of factors such as Mr. Nichols wearing 2 hats and the City expecting a pretty big building development at the time, adding he didn't know why the salary didn't come down or why the

Council didn't review the salary, but he thinks the Council should start the position from \$70,000 to \$80,000. Councilmember Brooks then stated he thinks the Council can get very qualified people, because there are a lot of unemployed degrees out there looking for work and if the town starts to grow, the Council can always bring the salary up. Councilmember Brooks then stated the Council needs to look to the public, adding they may be part of the hiring process and the Council should look to who they would like to see for a City Manager. Councilmember Brooks then stated he would like to make one other point, adding Sierra Vista pays their City Manager \$135,000 but they are 8 times the size of our city. Councilmember Brooks then stated as far as Mr. Cook's earlier comments, the current City Manager salary range is from \$90,000 to \$135,000 and Council tabled the salary range so they could review the amount placed in the advertisement for the City Manager position. Mayor King suggested advertising the position from \$70,000 to \$112,000. Vice Mayor McGoffin stated the salary survey shows Willcox pays their City Manager \$95,000 plus benefits and Bisbee pays their City Manager \$99,000 plus benefits. Councilmember Brooks interrupted, stating that is quite a bit different, like apples and oranges with Vice Mayor McGoffin stating South Tucson is also quite a bit different. Councilmember Brooks agreed. Vice Mayor McGoffin then continued, stating she would agree to advertising the range from \$70,000 to \$112,000. Vice Mayor McGoffin then moved to advertise the City Manager position from \$70,000 to \$112,362, the mid-point of the salary range. Seconded by Mayor King. Councilmember Sacco stated in the salary survey there were only a couple of cities that paid the amount Council was talking about and he didn't think Council should go that high, adding he thinks Council needs to lower that figure down somewhat to about \$60,000 to \$70,000. Councilmember Brooks stated Bisbee is a unique town with a higher tourist attraction than we have in Benson and he thinks Council should really consider limiting the salary to below \$100,000, adding \$90,000 is the maximum he would agree to. Councilmember Maldonado then stated Litchfield Park with a population of 5,476 pays their City Manager \$130,000; Holbrook with a population of 5,053 pays their City Manager \$91,000; Cave Creek, a richer community with a population of 5,015 pays their City Manager \$123,000; Eagar with a population 4,885 pays their City Manager \$85,000; Thatcher with a population of 4,865 pays their City Manager \$100,000 and Benson with our population of 5,105 is at \$105,000 which is right in the ballpark. Mayor King asked if there was any further discussion before calling for a vote. Motion then passed 4-3 with Councilmembers Brooks, Lambert and Sacco voting nay.

6. Review of City Finances with emphasis on January, 2013 financial results, the City's financial position at January 31, 2013 and discussion of expected future net revenue streams

Finance Director Jim Cox stated Deputy Finance Director Megan Moreno would be addressing Council with the January finances, adding he anticipates Ms. Moreno assuming the Finance Director position upon his retirement. Ms. Moreno then addressed Council reviewing the highlights for the month of January, starting with citywide financials. Ms. Moreno stated the City's cash bounced back up from December's balance of \$1.4 million to \$1.7 million. Ms. Moreno then stated the unused bond proceeds were still at \$1.4 million. Ms. Moreno then stated revenues for January were \$1.2 million, up compared to last year by \$235,000, adding a big reason for this was grant reimbursements for the Fire Department and the emergency generator at the airport, as well as an increase in our City sales tax of \$17,000. Ms. Moreno then stated the increase in sales tax is an upward trend and we also saw an increase in property taxes, due to timing. Ms. Moreno then addressed the General Fund stating revenues for the month of January and year-to-date revenues were very comparable to last year, as well as the expenditures being very comparable to last year, which is to be expected.

Ms. Moreno then moved to the Enterprise funds, stating the Gas fund is up \$58,000 for the month of January due to the weather and February is looking the same. Ms. Moreno then stated the Water fund is doing well, running smoothly and is just about where it was last year. Ms. Moreno then stated the Wastewater fund is down about \$6,000 for the month of January, noting there was a sewer break at Pearl and Patagonia requiring some major equipment rentals and we are still seeing some residual fees for the Whetstone hauling, but we should see those decrease.

Ms. Moreno then addressed the Golf Course stating it is up \$6,000 for the month of January, noting it is still down year-to-date, but there has been a huge turnaround. Ms. Moreno then stated memberships alone

are at about \$50,000 for the year, adding they are already at 112% of what was budgeted, so they are doing better than projected. Ms. Moreno then stated Director of Golf Operations Jay Tomerlin addressed Council at the last meeting with the new restaurant hours and menu and the golf course's reputation keeps getting better.

Ms. Moreno then gave a summary of sales tax stating the General Fund sales appear to be continuing up, adding next month is usually where we see the large increase with Christmas sales tax, so February is looking good. Ms. Moreno then stated the bed tax is basically where it has been at for the last few years and construction sales tax has seen a big dip, due to the end in a lot of construction projects, adding we don't really see any construction projects coming in the foreseeable future. Councilmember Brooks asked if the construction sales tax includes sales from contractors that build homes with Ms. Moreno stating it does. Councilmember Moncada then stated the construction sales tax is down due to the school's construction project being complete and the Interstate construction being complete with Ms. Moreno agreeing, stating those were the major projects and the City hasn't seen a lot of home building construction recently. Ms. Moreno then stated the total sales tax collections are just slightly above where we've been in the past 2 years. Ms. Moreno then stated in looking at the State sales tax chart, Council can see the collections are consistent and easy to predict versus the City's collections which are all over the place. Ms. Moreno then stated the good news is that she was able to attend a conference last week and a representative from the League of Arizona Cities and Towns was there with projections about revenues, specifically the State shared sales tax and revenue sharing, projecting they will be up at least 5%, possibly even 8% for this next fiscal year. Ms. Moreno then stated we should be getting those projections next week, but it is good news. Ms. Moreno then stated in summary, our State tax collections are holding steady and our City sales tax collections are improving, noting they are, in fact, up \$69,000 year-to-date, which is great and the Golf Course is doing well. Ms. Moreno then stated the cash flow is beginning to loosen, but will still be a challenge for the next budget year, adding overall, the City is still slightly below recent years, but that is mainly due to the dip we've seen in our cash reserves, adding the City remains financially sound under current conditions, but we're hoping for a positive turn in the economy.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Moncada moved to adjourn at 8:09 p.m. Seconded by Vice Mayor McGoffin. Motion then passed 7-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk