City of Benson
City Council Communication

Regular Meeting **February 25, 2013**

To: Mayor and Council Consent Agenda Item # 1a

From: Vicki Vivian, CMC, City Clerk

Subject:

Minutes of the January 28, 2013 Regular Meeting

Discussion:

Attached are the minutes of the January 28, 2013 Regular Meeting.

Staff Recommendation:

Council pleasure

THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JANUARY 28, 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:

Vice Mayor McGoffin read a proclamation declaring February, 2013 "Acts of Random Kindness" month, urging all citizens of our community to practice acts of random kindness for family, friends, acquaintances and strangers and to live their lives keeping with this attitude every day.

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Virgil Mustain addressed Council regarding the golf course, stating he was representing the San Pedro Men and Women's Golf Club and there were several members in attendance. Mr. Mustain then thanked the Council for the support they have given the golf course since it had been given to the City. Mr. Mustain stated they know the Council has some difficult financial decisions to make in the upcoming budget process and they wanted to encourage the Council to continue to support the golf course. Mr. Mustain then stated the golf course is making great progress as was evident by the number of cars in the parking lot. Mr. Mustain then stated the golf club interacts with people they don't know, adding the golf course is seeing a lot more people from Sierra Vista and Tucson, as well as snowbirds who stay in other communities besides Benson. Mr. Mustain then stated the golf course is in excellent condition and Staff, with Council's support, is doing great things such as stretching the budget they are given, using the Department of Correction workers and using the recycled asphalt on the cart paths, which has cut down on dust and looks a lot nicer. Mr. Mustain stated people leave the course with a positive attitude. Mr. Mustain then stated as ambassadors for the course, they speak to a lot of people and one thing they hear all the time is people would not come to play golf, if not for the overseed, adding with the overseeding, the course plays extremely well, and word of the great condition of the course is getting around to others, which bodes well for the future financial situation of the course. Mr. Mustain stated they also believe the course is very positive for the image of the City, adding people may be interested in coming here with a business or to live, and the course is another asset to attract them. Mr. Mustain then stated the San Pedro Men and Women's Golf Club has over 50 members and they are going to do everything they can to help the course be financially feasible, adding when they go to Tucson, they talk to people and try to get them to come to Benson and play and they will continue to support and do anything they can to help the golf course be successful. Mr. Mustain then thanked the Council again for their support.

Anthony Edmiston addressed Council regarding the City Codes and Building Codes, stating the Council needed to read the codes thoroughly before voting on them and asked the Council not to vote on the codes

if they hadn't had the opportunity to do so. Mr. Edmiston then stated Benson is not Phoenix or Los Angeles, so our City Codes should address our City, adding in our City there are several properties that will never be able to meet the codes that are proposed. Mr. Edmiston then stated if the Council doesn't want the City to be either rotting houses or leveled lots, they need to address some older homes and some exceptions to the Building Codes so we can continue to have housing in Benson and not have either just parking lots or empty vacant houses. Mr. Edmiston then stated people are not going to invest in properties that they're going to have to level to bring up to code.

Steve Sacco addressed Council regarding New Business Items 3 and 4. Mr. Sacco's comments will be retained with the Council packet.

Kathy Suagee addressed Council regarding New Business Items 3 and 4. Ms. Suagee's comments will be retained with the Council packet.

Jim Gray addressed Council regarding New Business Items 3 and 4. Mr. Gray stated in Benson, almost 80% of the buildings are old and are not going to be up to code, adding the proposed codes are really written in today's standards for new construction. Mr. Gray then stated when you look at businesses and homes in this area, you are looking at buildings from the 1800s on up and if the City doesn't respect grandfathering laws, something is wrong, adding grandfathering laws have been in place for decades to protect property owners. Mr. Gray then stated if the City applies new codes, they don't apply to existing structures or existing buildings, since they are grandfathered. Mr. Gray then stated if the Council is going to do anything, they should think long and hard, because this is not something they want to take lightly. Mr. Gray stated this is a very powerful ordinance the Council is trying to put in place, and while the Council should make a good community out of Benson, they should try to limit and restrict as much as possible, the power mongers who like to take total control of the people of Benson.

Gary Iovinella addressed Council stating he was present to inquire about a Remote Control field and how someone goes about getting a Remote Control field. Mr. Iovinella then stated he had spoken to someone at the airport who told him he needed to address the Council. Council then informed Mr. Iovinella that he would need to speak to Mr. Brad Hamilton, who is the Airport Manager. Mr. Iovinella thanked the Council for their time and stated he would contact Mr. Hamilton.

Thomas Fitzgerald addressed Council regarding New Business Item 3, asking how the City Council and City Staff can have the City Attorney prove beyond a reasonable doubt that Resolution 4-2013 is democratic and would provide a remedy for citizens' civil voting rights should the voters feel the Council is in error by actually approving the resolution. Mr. Fitzgerald then stated there is a weak and invalid effort to call the item a resolution, when the item is really of great importance and is a great change to City law, so it should be called an ordinance, adding any item that forces people to do something and prosecutes people meets the description of an ordinance. Mr. Fitzgerald then stated the proposed changes are 50 pages long and might remind people of the Patriot Act or other controversial and unusual treaties that will obviously be proven unconstitutional upon a legal challenge and the Council should tread lightly.

City Clerk Vicki Vivian addressed Council regarding the upcoming City elections, stating the Primary election is scheduled for March 12, 2013 and the General election is scheduled for May 21, 2013. Ms. Vivian then stated the election would be held to elect a Mayor and 3 Councilmembers, adding there are currently 2 candidates for Mayor and 5 candidates for Council seats. Ms. Vivian then stated the Primary election ballot would also contain Proposition 406, which is the Alternative Expenditure Limitation, also known as "Home Rule," which comes before the voters every 4 years. Ms. Vivian stated for City residents wishing to participate in the election process, they must be registered to vote, adding the deadline for voter registration for the Primary election is February 11, 2013 and for the General election is April 22, 2013. The General election would be held to fill any Council positions not seated at the Primary election. Ms. Vivian then stated in an effort to encourage voter registration and participation, the Clerk's office would be holding a voter registration day February 1, 2013 from 9:00 a.m. to noon at the Post Office, adding they would have voter registration forms and would also show people where to find Council agendas and

packets as well as other information pertaining to the City via the City's website and other social media sites.

Jeff Cook addressed Council stating he originally came to speak about the vehicle provisions under the Zoning Code, but he did some background research on Chapter 7 and had found contrary to what everyone else is saying, Section 7-4-1A(4) reads, "This Section shall not require changes in existing buildings and utilities when alterations were installed and have been maintained in accordance with the City of Benson Building Safety Codes in effect at the time of construction or alteration of the subject building or utilities." Mr. Cook then stated there had been a lot of intelligent, concerned, well-meaning people pounding the podium about something that seems to be a non-existent issue. Mr. Cook then stated regarding the Development Services Director being able to enforce these codes, the fear is that he has the freedom to do anything he wants. Mr. Cook then stated he had several complaints within his neighborhood, one was a landlord living in the garage and another was a property where the water would gather continually underneath a mobile home and sometimes when you walked across it, you would lose electricity in one or more rooms, adding since it was a safety hazard, he had referred it to Luis Garcia, who said basically his hands were tied as far as enforcing these codes, that the property owner has rights and the City can't violate those. Mr. Cook then stated he wasn't going to speak for or against the issue, but was just going to say the Council has a difficult decision to make and he is glad it is their decision. Mr. Cook then stated he is still being told his 1959 Chevy is a public nuisance, adding even though it is inoperable, a month ago he turned down $6,500 for it and last week he turned down $7,000 for it and if everyone in the room would drive by and look at it, they would agree it was not a public nuisance. Mr. Cook then stated it is a public nuisance by the definition and according to the proposal and the City either needs to enforce the code against his public nuisance or needs to change or eliminate the wording so it does not include his public nuisance.

CITY MANAGER REPORT:

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

February 5, 2013	–	Planning & Zoning Meeting, 7:00 p.m., City Hall
February 11, 2013	–	City Council Meeting, 7:00 p.m., City Hall
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 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 then stated the VFW and the Chamber of Commerce were planning on hosting City Council Candidate Forums in the near future.

Mayor King then stated Vice Mayor McGoffin would be the Acting Mayor beginning February 7, for two weeks, adding he would then return to his duties as Mayor.

Councilmember Brooks then stated the VFW Candidate Forum would be held on February 13 at 6:00 p.m. and he hopes all the candidates can attend. Councilmember Brooks then stated 70% of the votes in the last election were submitted as early ballots, so they wanted to have the Candidates Forum early.

NEW BUSINESS:

1. Consent Agenda

1a. Minutes of the January 14, 2013 Regular Meeting
1b. Resolution 2-2013 of the Mayor and Council of the City of Benson, Arizona, authorizing the Chief of Police to apply for a Governor's Office of Highway Safety Grant to fund equipment purchases and overtime
1c. Resolution 3-2013 of the Mayor and Council of the City of Benson, Arizona, approving a Special Event Liquor License for The Dallas Memorial Hope Fund of Benson for February 23, 2013 at Cochise Terrace, 1030 S. Barrel Cactus Ridge, Benson, Arizona
1d. Invoices processed for the period from January 2, 2013 through January 17, 2013

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

2. Presentation by author Gerald T. Ahnert on "The Butterfield Trail and Overland Mail Company in Arizona"

Mr. Gerald Ahnert addressed Council stating he was honored to be invited to help preserve our great western history, adding he is also donating one of his books to the City library. Mr. Ahnert then stated Benson is lucky enough to be one of the 3 cities in Arizona to be built directly on the historic Butterfield Overland Trail and will gain significant recognition in 2014 when Congress signs the bill, he hopes, into law, to give the trail a national historic trail designation. Mr. Ahnert then stated the reason for doing this is this trail is cited as the first government sanctioned trail to connect the east to the west, adding it went approximately 2,800 miles from St. Louis, MO to San Francisco, CA. Mr. Ahnert then stated he had researched the history for 43 years, had his book published in 2011 and had furnished historical information to the congressional researcher, Kirby Sanders, for his documentation about the history of the trail for the congressional report. Mr. Ahnert then stated he wanted to make it clear he had no official connection to the government, other than as an advisor to the National Park Service and the congressional researcher who have used his book as the primary source for the Arizona history of the Butterfield Trail. Mr. Ahnert then gave a powerpoint presentation showing primary references for the San Pedro River Stage Station and its route through Benson, adding the information obtained may be used as a basis for interpretive signs, which will help benefit tourism in Benson. Mr. Ahnert stated he had lived in Arizona in 1970 when he became aware of the Butterfield Trail and for the next 43 years up to now, he became rather intensely interested in that history, because it's our American journey. After the presentation, Mr. Ahnert stated a report will be given to the Council for their use. Mayor King thanked Mr. Ahnert for the information and his presentation.

3. Resolution 4-2013 of the Mayor and Council of the City of Benson, Arizona, declaring as a Public Record those Certain Documents filed with the City Clerk and entitled "Amended Chapter 7, 'Development Services'" and "Chapter 7.1 'Administrative Hearings'"

Councilmember Brooks moved to deny Resolution 4-2013. Seconded by Councilmember Sacco. Mayor King then opened the item for discussion and asked Mr. Garcia if he would like to address the Council. Mr. Garcia then addressed Council stating this resolution is in reference to Development Services for the Benson City Code, adding it is not a re-write, but is a consolidation. Mr. Garcia stated this item is not a Building Code nor is it a Zoning Code, adding the Building Safety Codes are in an ordinance and the Zoning Code is an ordinance within itself. Mr. Garcia then stated this is a City Code that deals with premises maintenance and building maintenance, noting it is not for building safety and the Building Safety Codes are its own document. Councilmember Sacco asked Mr. Garcia if he was saying this item has nothing to do with the ancillary documents with Mr. Garcia stating the Building Safety Codes are referenced in one section, but the item is not proposing to change any Building Safety Codes or any Zoning Regulations, adding it has nothing to do with any densities or land use, but is strictly structure and premises maintenance and is trying to be able to protect the public general welfare property values against blight, deterioration or health hazards and life safety issues. Mr. Garcia then stated this item is not changing any

of the makeup of the way the codes are adopted, adding there is a separate City Code section, a separate Zoning Regulation and a separate Building Safety Code. Mr. Garcia then stated he would like to go over some of the issues raised at the Call to the Public and began by addressing legal non-conforming use, stating this has been referred to as grandfathering, but the lawful term is legal non-conforming, adding a member of the community read the statement in the proposed code specifically for this, adding the code is not intended to be able to change anything on an existing property, but it does however, intend to be able to have a property maintained in a level of safety or a condition that will promote safety to the community. Mr. Garcia then stated in that case, the City would be looking to be able to make corrections in the name of safety, general welfare, protection from blight and things like that. Mr. Garcia stated the quoted section also reads the code shall be fairly and reasonably applied to promote the maintenance of all existing buildings and land in the City, adding the intent is to ensure individuals and families do not suffer undue hardship and the codes are not to be selectively enforced in one part of town or one use class, but are to be fairly and reasonably applied throughout the City. Mr. Garcia then stated another concern brought up was the right of entry and that Staff would be able to enter a property at any time, adding this is simply not true. Mr. Garcia stated the right of entry is notated in the proposal, but in the discharge of duties and when there is reasonable cause, the right of entry already exists in our adopted Building Safety Codes that are not being discussed and it has existed at least since the 1994 edition of the Uniform Codes, noting this has been unchanged all the way to the currently adopted Building Safety Codes and he extracted the language for the proposed Chapter 7 directly from our Building Safety Codes, so they could work in concert with each other. Mr. Garcia then stated the proposed code does speak of emergencies and of permitted inspections whenever a permit is applied for, but even further, it addresses a new State law, adding that may put some of the questions to rest as well, adding if there isn't a scheduled inspection, Staff will have to go through some steps. Councilmember Sacco asked about the new State law with Mr. Garcia stating the law was Senate Bill 1598 (SB1598) and makes municipalities accountable for their issuance of permits, for their inspections and their processes, and these requirements were incorporated into the proposal. Mr. Garcia then stated part of SB1598 requires Staff to provide identification, to provide documentation on the property owner's rights upon entering the property, adding this is something Staff is currently doing, since the law went into effect January 1, 2013. Councilmember Sacco asked when the bill was passed with City Attorney Mike Massee stating the bill was passed in the last legislative session with most bills becoming effective in August, 2012, but SB1598 contained some delayed effective dates to January 1 of this year. Councilmember Sacco asked what statutes were affected with Councilmember Brooks then reading Arizona Revised Statute 9-801, Definitions (A.R.S. §9-801). Mayor King then asked about the procedure in adopting a code by reference with Mr. Massee stating A.R.S. §802 contains the process for this, adding the resolution before Council declares the proposed Chapter 7 and Chapter 7.1 to be public documents and nothing more. Mr. Massee then stated the next item on the agenda, which is the ordinance, refers to the two documents by reference and by name, and adopts the two documents as ordinances, as if they were fully set forth herein. Mr. Massee then stated this procedure adopts by reference, the public documents that are being declared public documents by the resolution. Mr. Massee then stated this is a procedure the League of Arizona Cities and Towns came up with years ago, adding for example, this is how the City amends the Municipal Tax Code when the standard amendments come out of the recommending committee that get adopted by the League, they send out the documents to the City, we then declare the amendments to be a public document and then in a separate agenda item, which is an ordinance, the City adopts those documents by reference. Mr. Massee then stated again, the resolution before Council does nothing more than declare these two documents to be public documents. Mayor King asked if the documents had been made available to the public with Mr. Garcia stating when the documents were initially declared to be public documents almost a year ago, along with the required copies in the City Clerk's office, they were posted on the City's website. Mr. Garcia then stated the only portion that had received any changes was from the last Council worksession comments, addressing reasonable cause. Mayor King then stated he agreed more of a definition should be added regarding probable cause, adding he wouldn't want someone to come into his house because they had heard he had something in his house. Mayor King then stated many years ago, there was a business owner and an outside agency, not the Benson Police Department, went in and did a bust and made a very big mistake that was very costly to that agency. Mayor King then stated he thinks there should be a written definition explaining what probable cause is. Mr. Garcia then stated the probable cause terminology exists currently in our Building Safety Code, but it doesn't contain

the definition. Mayor King then asked Chief of Police Paul Moncada to explain probable cause. Chief Moncada then addressed Council stating probable cause in the context of the Police Department means you have to have reasonable belief that a crime or something is taking place at the time, which enables you to proceed to the next step to investigate a little further, so you can establish what we call probable cause, which gives us the right to get a warrant or make a stop or take enforcement action. Chief Moncada then stated that is probable cause as it affects criminal statutes and transportation statutes the Police Department enforces. Mr. Garcia then stated he thinks it states it very clearly in our Building Safety Code, probable cause is a condition which is contrary and in violation of the code which makes the structure or premises unsafe, dangerous or hazardous, so that is what the City will be taking into consideration. Mr. Garcia then gave examples, such as smoke coming out of a receptacle, that is probable cause to do more investigation, or if there was a fire incident, that is probable cause to be able to go in and do some additional investigation. Mayor King then stated he understood a fire or smoke would be probable cause, but asked about hearsay with Mr. Garcia stating the City takes citizen's complaints and will go ahead and do an initial investigation. Mayor King asked if that was legal with Mr. Massee stating if someone wanted to swear out a warrant to search your property because there is an allegation there is a crime going on there, the evidence that is being sworn to does not have to be admissible in a court of law, it can be hearsay, but it has to be presented to a neutral magistrate and the neutral magistrate, on review of all the evidence, has to come to the conclusion that there is probable cause. Mr. Massee then stated probable cause is a standard that lawyers and judges work with every day and it is a higher standard than mere suspicion, adding there has to be an articulable set of objective facts. Mayor King then confirmed that a City representative would have to gain entry by a judge, with Mr. Massee stating in the proposed code, which incorporates SB 1598 into our code, it sets forth a very specific process by which a building inspector can obtain permission and how he conducts an inspection after he obtains permission, so the first thing he would have to do is present a photo identification and request entry. Mr. Massee then said it further states where consent to enter and inspect is denied or cannot be obtained, neither the Director of Development services, nor his designee, shall enter in or upon the premises without a court order, which is a magistrate's warrant, issued by a court of competent jurisdiction, which may include the City Magistrate court, so if the Development Services Director or his designee shows up on someone's doorstep after the ordinance is adopted and says he believes he has probable cause to inspect and offers his photo id and asks to be allowed onto the property, and the owner says no, then that's the end of the matter until the Director of Development services goes to a magistrate and swears out a search warrant. Mr. Massee then stated this would require the Director of Development services or his designee to write out, under oath, which would basically be an affidavit, the objective evidence and his belief that there is cause to believe a violation of the code exists and it requires further inspection. Mr. Massee then stated in applying for a warrant, the magistrate would review it and determine whether a warrant would be issued or not. Councilmember Sacco then confirmed the building official would not make this determination with Mr. Massee stating if the property owner denies consent to an inspection, there would be no inspection until the magistrate says there is probable cause to inspect, which is stated in the proposed code. Mr. Massee then stated this is why the term "probable cause" is used, because a magistrate swears out search warrants all the time and probable cause is a standard that magistrates are familiar with. Councilmember Sacco then asked if the City representative could enter a business based on a citizen's complaint with Mr. Massee stating he could ask for entry, but if the owner says no, the City representative cannot enter and would then leave. Mr. Garcia then stated the current City Code does not provide this protection, but the proposed code version does. Mr. Garcia then stated the existing Building Codes and the Fire Code, which is the maintenance code, still does give the same language that with reasonable cause, we can go ahead and go in. Mr. Garcia then stated, again, it still exists today if we don't receive consent; we leave the premises and search other remedies as prescribed by law. Councilmember Lambert then stated if it comes to a point where the City has to get a warrant to go into the structure, just like the Police Department, they are supposed to go in and look at one specific area and are not allowed to go through papers and personal items and ransack the area, adding he wanted to clarify that they would be looking for the specific issue. Mr. Massee agreed, stating a warrant typically needs to be specific, adding there are warrants where you really lay out a good facts scenario that allow more general areas of searches, but you have to show that those areas you are asking to be searched are relevant to the issue at hand and you have probable cause to inspect them. Mr. Massee then stated in more than 90% of the time, the type of information, such as relating to the structural integrity of one particular wall or roof,

will request the warrant to authorize the inspection of that wall or that roof or whatever the issue is, but the inspector would not be checking outlets and things like that. Councilmember Sacco then confirmed that the warrant has to be specific to what they want to inspect with Mr. Massee stating the warrant gives the parameters for what can be searched, adding it would be signed by the magistrate, so the magistrate has to say there is a really good nexus here between what the evidence shows and what they are asking to be searched and if the search as requested is overbroad, the magistrate can tailor it back. Councilmember Sacco then stated that is not the way it is currently being done. Mr. Massee stated that might be a reason to want these procedures expressly written in the code, which would make them mandatory. Councilmember Sacco then stated he wanted specific, clear instructions to a business owner on what parameters the fire chief or building inspector has to use, so they can't just come in and say they have probable cause, adding they need to be very specific in getting a search warrant. Mr. Massee then stated there is an exception to obtaining a search warrant, which would be consent, adding in some traffic violations, the officer can ask for consent to open the trunk and if the driver gives consent, the trunk can be searched. Mr. Massee then stated the proposed code sets forth the process and the first thing the representative does is present themself with identification and ask for consent. Councilmember Sacco asked if they explained to the business owner that they have to give consent with Mr. Garcia stating this is what we are educating business and property owners about, adding it is not in the current code, but Staff is making it explicitly expressed in the proposed code. Mr. Massee agreed, stating the proposed code specifically states where consent is denied or cannot be obtained, it expressly states, we do not enter without first getting a search warrant that authorizes entry. Councilmember Lambert then stated that provision is not in our current code with Mr. Garcia confirming this and stating this is the current law the City has been respecting, but the proposed code includes it due to SB1598. Councilmember Lambert then stated Section 7-2-2 in the proposed code is for the end user and protects their rights of entry with Mr. Garcia agreeing, stating the proposed code lays out what their rights are prior to the inspection taking place. Councilmember Moncada then stated Section 7-2-2D(2) says on initiation of inspection, the purpose of the inspection and the legal authority for conducting the inspection must be stated, adding this is where Mr. Garcia or whoever is there to perform the inspection, has to give the reason for the inspection. Mr. Massee agreed stating this portion of the proposed code is almost verbatim from SB1598, which is already effective as part of the Arizona Revised Statutes, adding the proposed code makes it a part of the City Code and adds in the controlling procedures in a place where everyone is going to be able to access them and see them, as part of the responsibilities of the Director of Development Services. Mayor King asked if the City had pamphlets listing these rights that the City could give out when entering a property with Mr. Garcia stating the rights are as outlined in the proposed code and are given to the property owner upon entering the property as well as copies of the original documents taken from the premises by the inspector during the inspection, a split or duplicate of the samples taken on the inspection, if the split or duplicate or any samples were appropriate. It also includes their appeal rights and any permit information, again stating this is given out prior to any inspection that is not scheduled. Mayor King asked if the information also contained their right to refuse consent with Mr. Garcia stating it did. Mayor King then stated he would like for the business or property owner to get this information first so they understood what their rights were, and he would like to have it documented to prove they received this information before the City representative entered to do the inspection. Mr. Garcia stated that is on the form we started handing out January 1, adding there is a box for the owner or the person responsible to initial and sign, so when they receive a copy of the inspection, it will have their signature. Mayor King reiterated he would like to see the list of property owner's rights being given out before the City representative entered the property with Mr. Garcia stating the property owner or person responsible will get that information first and they will then sign the inspection report saying they have received and understand the document. Mr. Massee then stated in the proposed code on page 4, it reads if the person whose property is being inspected has not received a written or electronic document setting forth the above procedural rights, regarding inspections, the Director of Development Services or his designee shall provide such written notice of the above procedural rights upon initiation of the inspection as well as the name and telephone number of a contact person within the department to answer any questions regarding the inspection. Mr. Massee then stated we must give them a document setting forth their procedural rights with Mayor King stating he would like to see something on that document that proves the property owner or person responsible received that information. Mr. Garcia then stated we have a box that says they have received their rights and understand them, and he is also trying to make sure the

public at large is educated on this process. Mayor King then stated this is to protect the City as well as the property owner and asked if a statement could be added to the documents that would require the signature of the property owner or the person responsible stating either they gave permission to enter their property or they denied permission to enter the property with Mr. Garcia stating he could add that. Councilmember Lambert then stated in the next section, Section 9, it addressed obtaining the signature of the person whose property is being inspected or his designated representative with Mayor King stating it doesn't address when the signature will be obtained and he would like to see the signature granting or denying permission for the inspection. Mr. Garcia then stated the proposed code is explicit in stating what must be done before the City enters the premises with Councilmember Sacco verifying this is what is to happen before the City enters a property. Mr. Garcia stated again, this is correct and must happen before the City enters a property with Councilmember Sacco then asking if Mr. Garcia or someone else from the City came onto his property and he did not grant permission, what would then happen. Mr. Garcia then stated if the public is permitted in that establishment, we will go in where the public is permitted, but if we go there and are asked to leave, we will leave. Mayor King then stated he wanted to make sure we were covered in all directions and he feels we should explain everything to the property owner at the very beginning and inform them of their right to consent or deny entrance and have that signed first. Mr. Massee then stated that is exactly what the proposed code requires with Mr. Garcia agreeing, stating the document is signed upon the City representative entering the premises. Mr. Garcia then stated as of January 1, upon entering the premises, before conducting any inspection, there is a place on our inspection report, in triplicate, where they sign that they have received and are aware of all of their rights. Councilmember Sacco then asked if the City has a form that the business owner or the lease owner signs that says they allow the City to come into their premises and do an inspection with Mr. Garcia stating the City does. Councilmember Sacco then asked if the form existed now with Mr. Garcia stating the form was in existence as of January 1, 2013. Mr. Garcia stated the law went into effect January 1 and every inspection he has done since then, has had this form completed. Councilmember Sacco then asked for a copy of an executed document showing this. Vice Mayor McGoffin then stated the new State law required this and the proposed code change makes it part of our City Code. Councilmember Brooks stated he had read through the entire document, and he thinks it's strewn with a flavor of consolidated power, adding the citizens of this town are afraid of that and he represents them and he doesn't agree with what is going on. Councilmember Brooks then stated he thinks the proposed code needs to be rewritten and he thinks it needs to be looked at by someone outside the town, adding there's an organization that does this; they go through City documents to make sure they're in order and they're not going to have lawsuits and he thinks it would be wise to have some organization look at the proposed changes. Councilmember Brooks then stated he thinks the citizens would feel safer about it, adding there is too much area here for abuse. Councilmember Brooks then stated the Administrative Hearings section establishes a process where alleged violations can be heard administratively without burdening the City court system, but it is creating a system where a person doesn't have the ability to go before a judge anymore; he has to come to the same person who came to his house and said he didn't like what was being done and the property owner had to stop. Councilmember Moncada stated that is the process in place now, but the new process is giving the property owner a remedy before they have to go to a judge. Councilmember Brooks then stated when an inspection is done on your home or a permit is opened on a building and the property owner disagrees with what the City is demanding, like the size of wires in a building or things that don't apply to these people here, that they disagree with, the only recourse is to come back to the person who denied what they are doing, adding it doesn't give them any recourse. Mr. Garcia then stated there is actually a process through the adopted Building Safety Codes for a Board of Appeals, adding the property owner can go through the Board of Appeals for that very reason. Mr. Garcia then stated Chapter 7.1 for Administrative Hearings allows us to be able to speak with the property owners rather than just initially citing them into City court, adding it gives us another administrative remedy before we have to go into the court system and is intended to be able to give us a platform to communicate with the public for a more user-friendly program, rather than take them straight to court. Councilmember Brooks stated the other issue he sees is the permitting process taking up to 90 days, adding the businesses that want to come here, they're either going to do business or not and he hears the same thing all the time, that Benson is unfriendly to business. Councilmember Brooks then stated we need to find a way to work with these people so they can get what they want done in a safe way that the City feels comfortable with, but in coming at them with all these codes saying this is what the world expects of

this little town, is something we can't do, adding the people in this town don't have that kind of money. Councilmember Brooks then stated he thinks there has got to be another way we can work with the people in this town to not scare them and to make them confident in what we're doing. Mr. Garcia then stated the building permit process mentioned is a SB1598 requirement, adding before the permitting process held to unadopted policies that say the City would review and issue a permit within so many days, but State law changed that with SB1598. Mr. Garcia then stated the way we used to be able to review was if the City had received a permit request and we had questions, we could call them and get the additional information, but with SB1598, we have one attempt at an administrative review and one attempt at a technical review for the construction documents for anything from a tenant improvement up to a big box store, so the reason those timeframes are in there is to be able to protect the City, because we now have one opportunity to be able to review the project, adding the City of Phoenix, for example, put 6 months on their review process. Councilmember Brooks stated he understood it could take that long for a big box store, but if someone is going to build a shed in their backyard, it shouldn't take 3 months for them to get to start working on it. Mr. Garcia then stated it probably wouldn't take that time, but we were required to create and put within this ordinance an explicit timeframe that we have to be held to regardless of the project, so we had to do a one-size fits all, according to State law. Vice Mayor McGoffin then stated the timeframe is a maximum amount of time the City has, adding we can get it done faster, but had to put in the maximum time it would take with Mr. Garcia confirming this was correct. Councilmember Sacco then stated he wanted the City to be a friendly business town and he wants people to say Benson is easy to do business with, adding we don't have that. Councilmember Sacco then stated that is more important than all the procedures, adding the key thing is to get business here in Benson, so we can hire workers and get kids off the streets. Councilmember Sacco then stated we don't have that now and all we're interested in is developing a bunch of paper and laws, adding we need to conduct ourselves to be business friendly rather than all this paperwork that everyone has to wade through and they have to have an attorney to even understand. Councilmember Sacco then stated all he is interested in is getting businesses here that are really interested in doing business in Benson and want to stay in Benson, adding we put people through hoops and by the time we get done, they are on the road saying goodbye. Councilmember Brooks then asked if the newest version of the proposed chapters were posted in a public place with Mr. Garcia stating the City's website has been kept up-to-date with the changes that have been made, noting changes were based on comments from worksessions and the documents have been published for more than a year and are readily available on the City's website and in the City Clerk's office. Mr. Garcia then stated the proposed code initially posted was made a public document and is wholly the same as this edition, with the changes being edits on indentions, formatting and again, comments Council made at worksessions. Councilmember Brooks then stated on behalf of a number of constituents and not just the ones that are here, and the people that have talked to him personally, they are afraid of what they have read in this, adding again he had to reiterate the consolidation of power in one location and stated it frightens him. Councilmember Brooks then stated he thinks this has to be looked at and feels it should be done by someone outside the City. Councilmember Brooks then stated Staff has done all the work and gotten it to where it is, but he thinks someone else should look at it and determine whether or not this will hurt the City or if they feel the City will have lawsuits coming if we do this, adding it's hard for him to pass something like this on the people of this town. Councilmember Sacco agreed stating he feels we need to have a third set of eyes look at this and asked if the Council was doing the right thing or if they are causing heartburn for people already here and for people interested in coming here, adding the Council needs to know those things. Councilmember Sacco then stated our goal is to get more people and more businesses here. Councilmember Brooks then stated he is concerned about the consolidation of power and the issue of whether this has been adopted properly, stating there are questions and he is concerned. Councilmember Brooks then stated there have been some notations made that if someone wanted to take the City to court because of a difference of opinion on a violation the City claimed they had, that in the end when they got done with the court case, they wouldn't really have any rights to collect any money for attorney fees, because it's written specifically so that it would be a writ of centori, adding why would someone want to spend $20,000 to prove the City wrong and then not get their attorney's fees back. Mr. Garcia then stated as far as the consolidation of power concern, that is the way the City is running today, adding there is no change in the power dynamic anywhere in the proposed code and the Zoning, Building and Planning Departments have been run this way since 2007, before he was hired. Mr. Garcia then stated when the change was done in 2007, the departments were consolidated and

the Development Services name was placed on the building, adding it was clearly the intent and was the same way he was instructed to run the department. Councilmember Brooks stated there were actually individuals that, if someone had a problem with one person, they could go to the other and he might understand what the customer or property owner was speaking about and could then work that out with the other department, but in this case, the City would have one person and if that person disagreed, then the customer or property owner was done. Mr. Garcia then stated since 2007, there had only been one person overseeing the three divisions within the department, so what he was trying to clarify is there is no change in the dynamics anywhere in the proposed code, besides the name change, adding everything else remains the same, so the phobia about the consolidation of power shouldn't exist, since the department is organized this way today and has been since 2007. Vice Mayor McGoffin then stated she was on the City Council when they consolidated all of that into one department because at that time and to this present day, she felt that if a customer or a citizen had a question, they should be able to go to one person and didn't feel they should have to go to one person for this and another person for that and so on, adding before the consolidation, customers would go to different staff members and get different answers. Vice Mayor McGoffin then stated the Council consolidated the departments and tried to make the process as streamlined as possible and everyone would have to admit, the process is much better now than it was in 2007. Vice Mayor McGoffin then stated she agrees we want to bring businesses to Benson, however, she didn't want business to come to the City at the expense of the public that is already here, adding she wants businesses to come, but she wants them to follow rules and statutes and do things the correct way so they will benefit the City, instead of having them come to Benson because it is easy and they can get away with not meeting requirements. Vice Mayor McGoffin then stated the City used to be worse than Pima County, where it took up to 2 years to get anything done and we've come a long way in making things better. Vice Mayor McGoffin then stated the Council has been looking at the proposed code for about a year, the public voiced their opinions and the Council made some changes, adding a lot of the proposed code protects homeowners and business owners and she thinks the Council needs to move forward. Councilmember Moncada stated he knew he sounded like a broken record, but he didn't support the historical requirements for 4th Street to look like it was built between 1880 and 1920, adding the requirements don't affect safety and are purely for aesthetics. Councilmember Moncada then stated it's hard enough on businesses in that area and he feels the City should work with them on anything that isn't a life safety issue, adding he feels the historical requirements should be removed from the proposed code. Councilmember Moncada then stated another section he has concerns about it blight, stating the concern isn't with Mr. Garcia, but with the way it's written with paint peeling and Mr. Garcia's comment about window screens being a life safety issue, adding he doesn't view them as a life safety issue even though he knows what Mr. Garcia's reasoning is, but he wants to see how it is enforced. Mr. Garcia then stated the historical requirements for 4th Street could be removed from the proposed code, adding the only reason it was included is because the City needed to let the applicant know, ahead of time, everything they would need for the permit process so it was carried over from the existing Zoning Regulations. Mr. Garcia then stated removing it doesn't affect the validity of the proposed code, adding the Zoning Regulations will be coming to the Council in the future and if Council would like to exclude that requirement, they could do so. Councilmember Maldonado then stated he had concerns about older vehicles, stating people get attached to vehicles even though they may need a few things in order to run. Mr. Garcia then stated the provisions in the proposal were trying to establish a minimum standard of what is reasonable for a residential type property or even a commercial property and if the Council were to change the number of vehicles allowed, it would be up to them, adding the proposed number came from researching other municipalities. Councilmember Maldonado then stated that Mr. Garcia had mentioned the proposed code being better for the public than the current code and asked Mr. Garcia to explain that. Mr. Garcia then stated the proposed code has many of the same provisions that are in the current City Code, but it also clarifies many things that were not clearly defined in the current code. Mr. Garcia then stated the proposed code also refines the enforcement process, adding the current City Code mandates using the magistrate court after the initial 30-day notice of violation is not remedied. Mr. Garcia then stated he thought that process was too harsh and wasn't really harboring compliance, but was more of a strong-arm, so he took a step back and created an administrative process, including a civil and criminal process if the violation can't be remedied at the initial voluntary compliance stage, adding this way it allows the City to be more user-friendly and allows the City to have a conversation with the public rather than just taking them straight to court. Mr. Garcia then stated the intent was to make

the code more user-friendly and also to codify the organization, adding everyone has recognized the way the Building, Planning and Zoning Departments have been run. Mr. Garcia then stated in looking at the enforcement process, there are a lot of deficiencies in the current code and a lot of City resources were used but with the deficiencies, it was hard to gain compliance, so the process was redefined and made clearer so the City could have the authority to move forward on enforcement, which should help gain compliance. Councilmember Maldonado stated he knew there had been an individual coming in about bushes he wanted removed and the City couldn't enforce it with Mr. Garcia stating that situation was similar to vacant undisturbed land, so for the City to mandate the clearing of an adjacent property for viewing purposes and still be enforcing the code consistently across the City, we would have to strip everything from Kartchner Caverns this way and that was not the way the code was intended to be used, adding it was a misunderstanding of the way the code was adopted or the way the code was being enforced. Councilmember Moncada then asked about the section regarding inoperable vehicles, stating the proposed code allows 2 inoperable vehicles. Mr. Garcia stated the code addressed the restoration of vehicles and we do understand there may be 2 cars the property owner is going to restore into 1, adding the proposed code is looking at a vehicle graveyard, with disabled vehicles in a residential lot, right next to another property owner, adding that is not the property owner's expectation of a residential lot and we are trying to create uniformity across the City. Councilmember Moncada then asked for clarification on a violation of this section with Mr. Garcia stating if there is a vehicle that is habitually not running on a property, it will constitute a public nuisance because it's adversely affecting adjacent properties. Mr. Garcia then stated the number of vehicles is variable and is up to Council, adding he was proposing a minimum standard for the City. Mayor King then asked about property with grass or weeds higher than 10 inches and the difference in residential or vacant lots with Mr. Garcia stating the intent for any vacant lot in a residential zoning district is the property owner is expected to maintain weeds in excess of 10 inches to minimize the fire danger, adding what it is not intended to overcome is a property that is rural in nature, adding if your property is rural in nature, you're not expected to have the adjacent property cleared. Mr. Garcia then stated every homeowner has the responsibility to protect their properties from fire and the City tries to set a minimum standard and to have your neighbor comply with that minimum standard. Mayor King then asked about smoke, stating he understands smoke bothers some people, but felt it shouldn't be a violation to bar-b-que or have a fire pit in his yard, adding some people are offended by the smell with Mr. Garcia stating the proposed code addresses this in Section 7-4-5 and does not apply to bar-b-que grills, but applies to buildings that produce conditions that are hazardous to your health, adding someone's annoyance of a fume may not be constituted as a hazard to their health, unless you are burning something that is hazardous, in which case the City would want to be able to address that issue. Mayor King then asked about the proposed code affecting surrounding communities or businesses outside the City limits that may be producing hazardous fumes with Mr. Garcia stating the proposed code would only apply inside the City limits and the City would only have governance over the corporate limits of the City. Mayor King expressed concern over this section with Mr. Garcia stating it would only apply if the smoke or fumes were detrimental to the health of individuals or the public. Councilmember Brooks then stated it is for someone burning plastic or something toxic with Mayor King stating he understood that, but was concerned how it may be interpreted by the next building official or inspector. Mr. Garcia stated this is why he made the proposed code as explicit as possible, adding it was for a reasonable person of normal sensitivity. Councilmember Maldonado then asked about a business owner being turned in for a violation by someone who was mad at the business owner and what type of recourse the business owner would have with Mr. Garcia stating if the City were to receive a complaint of a violation by a business, we would go and have a conversation with them, saying the City received a complaint and we would request consent to perform an inspection. Mr. Garcia then stated if the City did not gain consent, the City would have to decide whether or not to move forward with obtaining a search warrant through the proper procedure. Councilmember Maldonado asked how much credibility the City gave a complaint and asked if the person making the complaint had to sign anything doing so with Mr. Garcia stating the City has a complaint form we request to be filled out for complaints and the City then opens an investigation from there, adding everyone is innocent until proven guilty, so the City tries to gain information and would request consent to be able to enter the property to perform an inspection. Councilmember Maldonado then asked if the business owner was turned in for no reason, what kind of recourse they would have with Mr. Garcia stating if no violations were found, he would notify the person who made the complaint and let them know the City inspected the

premises and found no violations of any of our City Codes and would be closing the file. Councilmember Maldonado asked again if the business owner would have any recourse on the person who made the complaint with Mr. Garcia stating the City would not get involved in civil disputes between property owners. Mr. Massee then stated if the City received a complaint, we would go to the business owner and if the business owner refused consent, which is his right, at that point, the inspector or Director of Development Services would have to look at the evidence and maybe consult with the City Attorney and determine if the City has enough to go forward to obtain a warrant. Mr. Massee then stated if all the City has is one report and nothing else corroborates it, maybe we stop right there and don't even try to get a warrant because that's not very compelling, but if there are other ways of trying to corroborate that evidence, and the City thinks the complaint looks pretty solid, at that point, we'd put it all together in a written affidavit that has to be sworn to by someone and we'd present that affidavit to a judge, adding then it would be for the judge to make the call on whether the inspection goes forward pursuant to a search warrant or not. Councilmember Maldonado then stated the proposed code then protects the property owner or the business owner more than the current code does with Mr. Massee agreeing stating there are a lot of procedural protections written in the proposed code. Councilmember Brooks then stated Councilmember Moncada brought up a good point when he mentioned blight and asked what type of homes the City would be looking at for enforcement, adding his concern is that if you find something in a home that you want to investigate, you will cite them and if they don't agree with the way it was done or that it is a violation, then the City can just write them up for all kinds of violations. Mr. Garcia then stated the types of structures that will be targeted are dilapidated structures that pose a hazard to life, health and safety. Councilmember Brooks then asked if he turned someone in for a rotted front eve, that may fall down and hit someone, if that was something they could be cited for with Mr. Garcia stating no, as there is a lot more integrity in a piece of wood than people think, adding what he would be looking at were blighted conditions that are hazardous to the public. Councilmember Brooks then stated he didn't know how much it would cost to have a service look at the proposed code, but a lot of the people he spoke with would feel a lot more comfortable if some outside service gave their blessing on the proposed code, since it was all written internally with sections of code being obtained from other jurisdictions and put together into a menagerie, adding whether they work together or not is not proven. Councilmember Brooks then stated there could be lawsuits and people are very concerned about it, so he thinks an outside service reviewing the proposed code would be good, adding he's not proposing the City spend a lot of money, but there are services out there that do this, going through City codes and regulations, making sure they flow together and it's not infringing on people's rights. Councilmember Brooks then stated he thinks it would also go a long way to having citizens trusting the government if we did that instead of just passing a code because we can or because we can't see how it's going to affect us in the future. Councilmember Brooks then stated right now, he isn't comfortable with the proposed code and thinks we need to have someone look at it, adding he feels he owes that to the people who elected him. Mayor King then stated there was a motion on the floor. Mr. Massee then addressed Council stating the resolution before Council makes these two documents a public record; it does not adopt them, but only makes them public documents, adding the next item addresses adopting the proposed codes. Mr. Massee then stated the standing motion is to deny the resolution, adding he would rather have an affirmative action motion, but if the motion to deny the resolution fails to pass, as parliamentarian, he would request another motion for affirmative action, adding just because a motion to not approve a resolution fails, it would not mean by the negative implication that it did, indeed, pass. Mayor King then asked Councilmember Brooks if he would like to amend his motion to an affirmative action with Councilmember Brooks stating his motion is to not adopt the proposed codes, adding he could alter it to the point of having the documents reviewed by an outside agency, but he would not change his motion to not adopt them because he thinks they need to be looked at. Mr. Massee then stated the motion, as is, really addresses the next item, which is adopting the proposed codes and stated this item is a resolution declaring the proposed codes as public documents, adding if Councilmember Brooks wants to deny making the proposed codes public records, then it would be clear he was addressing the current item. Councilmember Brooks stated he would leave his motion as stands. Mayor King then called for a vote on the motion to deny Resolution 4-2013. Motion failed 5-1 with Mayor King, Vice Mayor McGoffin, Councilmembers Lambert, Maldonado and Moncada voting nay and Councilmember Sacco abstaining. Mr. Massee then stated this did not mean the resolution passed. Mayor King stated he was getting the feeling some of the proposed code was acceptable, but there was a lot that wasn't and he felt the

Council should look at this issue again, with comments from the public, Staff and Council being kept in mind, and then the Council could bring the issue back for action. Mayor King then moved to table Resolution 4-2013. Seconded by Councilmember Sacco. Councilmember Lambert asked Mayor King if he could ask him to amend his motion to include sending the proposed codes to an outside service for review before it came back to Council for action with Mayor King stating he would amend his motion as such. Amended motion seconded by Councilmember Sacco. Motion passed 5-2 with Vice Mayor McGoffin and Councilmember Moncada voting nay.

4. Ordinance 563 of the Mayor and Council of the City of Benson, Arizona, adopting Amended City Code Chapter 7 "Development Services" and new City Code Chapter 7.1 "Administrative Hearings"; deleting current City Code Chapter 7 "Building" and Article 9-2 "Public Nuisances and Property Maintenance"; and creating a penalty for violations thereof

Mayor King moved to table Ordinance 563 in conjunction with Resolution 4-2013. Seconded by Councilmember Maldonado. Motion passed 5-2 with Vice Mayor McGoffin and Councilmember Moncada voting nay. Mayor King then stated the Council would take a brief break at 9:15 p.m. and reconvened at 9:23 p.m. Mayor King then stated the Council would address Agenda Item 8.

8. 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

Councilmember Brooks moved to table this item until the next Council meeting. Seconded by Councilmember Maldonado. Motion passed 7-0.

5. Resolution 5-2013 of the Mayor and Council of the City of Benson, Arizona, approving a schedule for fees relating to Recreation Services

City Manager Glenn Nichols stated with the adjustment of the school year, the Recreation Department is recommending a reduction in the seasonal swimming passes. Mr. Nichols then stated the other proposed change in this section is the correction of the title from Recreation Manager to Recreation Coordinator. Councilmember Moncada moved to approve Resolution 5-2013. Seconded by Mayor King. Motion passed 7-0.

6. Resolution 6-2013 of the Mayor and Council of the City of Benson, Arizona, accepting and approving a Grant Agreement with the State of Arizona Department of Transportation Aeronautics Division for Improvements at the Benson Municipal Airport (E3F2X-01C)

Public Works Director Brad Hamilton addressed Council stating this item is a matching grant for the current FAA grant project being completed at the airport. Mr. Hamilton stated the grant award reduces the City's share from $32,600 to $16,300. Vice Mayor McGoffin moved to approve Resolution 6-2013. Seconded by Councilmember Moncada. Motion passed 7-0.

7. Discussion and possible action regarding the recruitment for the position of a City Manager

Mayor King stated in the past, the City had spent an average of $3,500 to advertise the position of City Manager, adding the proposal from the League of Arizona Cities and Towns includes advertising, recruiting, performing background checks, providing interview questions and conducting interviews, as well as providing a sample contract with Council direction. Councilmember Moncada stated he had spoken to Mr. Ken Strobeck, the Executive Director at the League and was told the League would advertise, take applications and screen them down to the Council's pre-selected number, adding the League recommends 12 candidates. Councilmember Moncada then stated the League would perform background investigations on the final candidates and Council could then interview from there. Councilmember Moncada then stated he thinks it is better to utilize this service from the League. Councilmember Brooks agreed stating he thought the League would be able to advertise throughout Arizona and make the position available to other

City Managers who may be thinking of leaving their current town. Councilmember Brooks then stated the League has a well-known name and he felt it was a good one-stop way to get a good selection of candidates to look at. Councilmember Lambert then stated he thought the City could save the money and use one of the Department Heads as an Interim City Manager so the Council could consider the matter a little longer. Councilmember Moncada then stated he felt skimping on a City Manager was probably the worst thing a Councilmember could do, adding he thinks the City should utilize the recruitment service of the League and if City Department Heads were interested in the position, he would encourage them to apply, but he felt the Council needed to consider all options. Vice Mayor McGoffin then stated she had been through the hiring process for a City Manager twice and thought utilizing the League's service was a great idea, adding this way, a professional who has the time will be able to narrow the candidates down to decent applicants and perform background checks. Vice Mayor McGoffin then stated if Department Heads are interested, they could apply and if the Council didn't complete the hiring process in time, the Council could possibly look internally and utilize a Department Head as an Interim City Manager. Mayor King agreed. Vice Mayor McGoffin then moved to approve using the League of Arizona Cities and Towns' recruitment process for the City Manager position. Seconded by Councilmember Maldonado. Councilmember Brooks asked about the number of candidates the Council would like to have from the League with Vice Mayor McGoffin stating the League advertises nationally and the Council agreeing 12 candidates was a good number. Councilmember Moncada then stated the League performed this service for 5 cities or towns in Arizona last year so they have refined the process and know the previous candidates. City Manager Glenn Nichols then stated the League would be meeting with the Council to review the recruitment process and develop a position profile and an advertisement and Council could review the details at that time. Mayor King then called for a vote. Motion passed 6-1 with Councilmember Lambert voting nay.

8. 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

This item was addressed after Agenda item 4. See above for action.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Vice Mayor McGoffin moved to adjourn at 9:33 p.m. Seconded by Councilmember Moncada. Motion passed 7-0.

_____
Toney D. King, Sr., Mayor

ATTEST:

_____
Vicki L. Vivian, CMC, City Clerk

City of Benson
City Council Communication

Regular Meeting **February 25, 2013**

To: Mayor and Council Consent Agenda Item # 1b

From: Megan Moreno, Deputy Finance Director

Subject:

Invoices processed for the period from February 1, 2013 through February 13, 2013

Discussion:

Attached is a list of large and/or unusual invoices processed by the Finance Department during the period from February 1, 2013, through February 13, 2013. The total of the invoices is $223,071.68.

Unusual and large invoices consist of the following:

Arizona Public Safety Retirement	Bi-weekly Public Safety Retirement	8,888.32
Arizona State Retirement	Bi-weekly Retirement Contribution	23,810.50
Shell Energy	Monthly Natural Gas Purchase	48,570.99
Rikertek	Cameras for Transit Buses	4,663.50
Rikertek	IT services	4,770.00
Diggins & Sons Power Sweeping	January Street Sweeps	1,900.00
Health Net	Monthly Employee Health Insurance	42,441.94
Sleuth Software	Annual Software Support for Police Dept	8,120.88
Benson Ace Hardware	Maintenance and Supplies	3,058.12
Cochise Stone LLC	Infield Mix for Lions Park Softball Field	4,626.75
D&J Towing	Workman Maintenance Trucks for Golf Course	4,800.00
Stantec Consulting Services	Emergency Generator Project (Grant)	5,257.00
Voyager Fleet Systems Inc	Monthly Vehicle Fuel for City Vehicles	8,875.45
TOTAL LARGE INVOICES		**169,783.45**
Invoices listed above as a percentage of all invoices processed		**76%**

Staff Recommendation:

Approval of invoices processed for the period from February 1, 2013 through February 13, 2013

Report Criteria:
Report type: Summary
Check.Type = {<>} "Adjustment"

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount	
02/13	02/01/2013	1077	7007	TASC	1020200	372.89	M
02/13	02/01/2013	1078	1490	AZ STATE RETIREMENT ACC REC	1020200	23,810.50	M
02/13	02/04/2013	5018	3078	SHELL ENERGY NORTH AMERICA	1020200	48,570.99	M
02/13	02/01/2013	38226	8913	ALBERT ESTAVILLO	1020200	200.00	
02/13	02/01/2013	38227	5551	ANICLETO D MALDONADO	1020200	200.00	
02/13	02/01/2013	38228	1430	AZ PUBLIC SAFETY RETIREMENT	1020200	8,888.32	
02/13	02/01/2013	38229	2071	BENSON LUMBER & SUPPLY LLC	1020200	1,135.36	
02/13	02/01/2013	38230	2160	BENSON VOLUNTEER FIRE DEPT INC	1020200	5,000.00	
02/13	02/01/2013	38231	2562	BRIAN K ORMSBY	1020200	189.00	
02/13	02/01/2013	38232	2336	BTCO	1020200	800.00	
02/13	02/01/2013	38233	2599	CENTURYLINK	1020200	41.89	
02/13	02/01/2013	38234	2784	CNG	1020200	820.00	
02/13	02/01/2013	38235	3050	COMMUNITY FOOD PANTRY OF	1020200	130.00	
02/13	02/01/2013	38236	3119	COX COMMUNICATIONS	1020200	392.12	
02/13	02/01/2013	38237	3975	GEOFFREY MCGOFFIN	1020200	200.00	
02/13	02/01/2013	38238	4130	GURSTEL CHARGO PA	1020200	186.26	
02/13	02/01/2013	38239	8909	HAMILTON, RICHARD	1020200	200.00	
02/13	02/01/2013	38240	4193	HAMMEROFF LAW GROUP PC	1020200	222.46	
02/13	02/01/2013	38241	7895	JAMES HANSEN JR.	1020200	200.00	
02/13	02/01/2013	38242	4508	JAY TOMERLIN	1020200	40.00	
02/13	02/01/2013	38243	4505	JERRY FINK	1020200	200.00	
02/13	02/01/2013	38244	8914	JOE ROTHERMICH	1020200	200.00	
02/13	02/01/2013	38245	4840	LARRY NAPIER	1020200	200.00	
02/13	02/01/2013	38246	4958	LORENE WHALEY	1020200	567.27	
02/13	02/01/2013	38247	4349	MARK DREHOBL	1020200	40.00	
02/13	02/01/2013	38248	5157	MARYLAND CHILD SUPPORT ACCOUNT	1020200	69.81	
02/13	02/01/2013	38249	5191	MAX JONES	1020200	200.00	
02/13	02/01/2013	38250	5495	NATIONWIDE RETIREMENT SOLUTION	1020200	1,200.00	
02/13	02/01/2013	38251	6133	RANDALL GALLEANO	1020200	35.00	
02/13	02/01/2013	38252	6144	RAY JOHNSON II	1020200	200.00	
02/13	02/01/2013	38253	6252	RIKERTEK	1020200	4,770.00	
02/13	02/01/2013	38254	6777	SOUTHWESTERN AVIATION LLC	1020200	1,000.00	
02/13	02/01/2013	38255	2791	SUPPORT PAYMENT CLEARINGHOUSE	1020200	828.17	
02/13	02/01/2013	38256	8907	THELANDER, JAMES	1020200	200.00	
02/13	02/01/2013	38257	7667	VERIZON WIRELESS	1020200	400.10	
02/13	02/01/2013	38258	7685	WASHINGTON STATE SUPPORT REGISTRY	1020200	115.38	
02/13	02/04/2013	38259	1027	A&M PERSONNEL SERVICES LTD	1020200	431.36	
02/13	02/04/2013	38260	1130	AMERICAN FAMILY LIFE ASSURANCE	1020200	1,858.76	
02/13	02/04/2013	38261	1063	ANIMAL RURAL KLINIC	1020200	235.00	
02/13	02/04/2013	38262	1415	ARIZONA MACHINERY	1020200	94.12	
02/13	02/04/2013	38263	1506	ARNOLD'S FLOWERS & GIFTS	1020200	114.13	
02/13	02/04/2013	38264	1901	BARNETTS PROPANE	1020200	32.45	
02/13	02/04/2013	38265	1924	BEAVEX, INC	1020200	92.40	
02/13	02/04/2013	38266	2020	BENSON HOSPITAL	1020200	150.00	
02/13	02/04/2013	38267	2599	CENTURYLINK	1020200	99.17	
02/13	02/04/2013	38268	2667	CHERI SHULL	1020200	169.25	
02/13	02/04/2013	38269	2750	CITY OF BENSON - UTILITIES	1020200	33.82	
02/13	02/04/2013	38270	2970	COLONIAL LIFE ASSURANCE	1020200	88.43	
02/13	02/04/2013	38271	3057	COMPLETE CARPET CLEANING LLC	1020200	80.00	
02/13	02/04/2013	38272	3119	COX COMMUNICATIONS	1020200	41.01	
02/13	02/04/2013	38273	3410	DIGGINS & SONS POWER SWEEPING	1020200	1,900.00	
02/13	02/04/2013	38274	3421	DIRECTV	1020200	160.99	
02/13	02/04/2013	38275	3610	EMPIRE SOUTHWEST, LLC	1020200	304.31	

M = Manual Check, V = Void Check

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
02/13	02/04/2013	38276	1923	GARDNER MEDIA LLC	1020200	106.73
02/13	02/04/2013	38277	3983	GEORGE'S AUTOMOTIVE	1020200	455.27
02/13	02/04/2013	38278	3995	GIANT ELECTRIC CORPORATION	1020200	95.83
02/13	02/04/2013	38279	4239	HEALTH NET LIFE INS CO	1020200	42,441.94
02/13	02/04/2013	38280	4332	HUMANA	1020200	659.33
02/13	02/04/2013	38281	4933	ICC	1020200	46.21
02/13	02/04/2013	38282	4372	INDUSTRIAL METAL SUPPLY COMPANY	1020200	61.18
02/13	02/04/2013	38283	11359	JAMES R PIERCE	1020200	32.35
02/13	02/04/2013	38284	4506	JASON SANTO	1020200	37.51
02/13	02/04/2013	38285	4508	JAY TOMERLIN	1020200	2,105.69
02/13	02/04/2013	38286	4954	LN CURTIS & SONS	1020200	228.71
02/13	02/04/2013	38287	5213	MCNEILS CUSTOM ENGRAVING	1020200	201.88
02/13	02/04/2013	38288	5265	MESCAL HEATING AND	1020200	147.50
02/13	02/04/2013	38289	6010	PRINCIPAL LIFE	1020200	1,056.00
02/13	02/04/2013	38290	7731	PURCELL WESTERN STATES TIRE	1020200	880.14
02/13	02/04/2013	38291	6075	PURCHASE POWER	1020200	1,000.00
02/13	02/04/2013	38292	6180	RECORDED BOOKS, LLC	1020200	19.85
02/13	02/04/2013	38293	6356	SAFARI MICRO INC	1020200	1,305.60
02/13	02/04/2013	38294	6802	STAMBACK SEPTIC SERVICE	1020200	208.24
02/13	02/04/2013	38295	7253	TITLEIST	1020200	2,080.53
02/13	02/04/2013	38296	7402	US FOODSERVICE INC	1020200	1,816.97
02/13	02/04/2013	38297	7652	VISION SERVICE PLAN	1020200	159.72
02/13	02/04/2013	38298	7675	WAL-MART BUSINESS	1020200	1,001.71
02/13	02/06/2013	38299	4126	GUARDIAN EMS	1020200	101.75
02/13	02/06/2013	38300	5454	NATIONAL BANK OF ARIZONA	1020200	2,263.16
02/13	02/06/2013	38301	6252	RIKERTEK	1020200	4,663.50
02/13	02/06/2013	38302	6721	SLEUTH SOFTWARE	1020200	8,120.88
02/13	02/08/2013	38303	1027	A&M PERSONNEL SERVICES LTD	1020200	431.36
02/13	02/08/2013	38304	1640	AACOP	1020200	125.00
02/13	02/08/2013	38305	1077	AFFORDABLE ALTERNATIVES INC	1020200	45.35
02/13	02/08/2013	38306	1320	ARIZONA DAILY STAR	1020200	332.74
02/13	02/08/2013	38307	1950	BENSON ACE HARDWARE	1020200	3,058.12
02/13	02/08/2013	38308	2180	BESTWAY ELECTRIC MOTOR SERVICE	1020200	719.41
02/13	02/08/2013	38309	2289	BORDER STATES ELECTRIC SUPPLY	1020200	845.29
02/13	02/08/2013	38310	2350	BUG-WISER EXTERMINATING CO	1020200	1,181.00
02/13	02/08/2013	38311	2632	CES	1020200	121.10
02/13	02/08/2013	38312	2750	CITY OF BENSON - UTILITIES	1020200	2,471.35
02/13	02/08/2013	38313	2831	CMI, INC.	1020200	66.26
02/13	02/08/2013	38314	2924	COCHISE STONE LLC	1020200	4,626.75
02/13	02/08/2013	38315	3345	D & J TOWING	1020200	4,800.00
02/13	02/08/2013	38316	3460	DUNLAP OIL COMPANY INC	1020200	1,962.69
02/13	02/08/2013	38317	3648	ESG CORP	1020200	2,900.00
02/13	02/08/2013	38318	4085	GRAINGER	1020200	112.27
02/13	02/08/2013	38319	4126	GUARDIAN EMS	1020200	496.67
02/13	02/08/2013	38320	4094	H & E EQUIPMENT SERVICES	1020200	317.80
02/13	02/08/2013	38321	11360	IDA PAPPAS	1020200	7.39
02/13	02/08/2013	38322	4907	LEGEND TECHNICAL SERVICES	1020200	246.00
02/13	02/08/2013	38323	5645	OFFICE DEPOT, INC	1020200	292.69
02/13	02/08/2013	38324	6073	PUMPKIN BOOKS	1020200	111.54
02/13	02/08/2013	38325	6180	RECORDED BOOKS, LLC	1020200	198.00
02/13	02/08/2013	38326	6252	RIKERTEK	1020200	1,005.00
02/13	02/08/2013	38327	6409	SALEM	1020200	100.00
02/13	02/08/2013	38328	6841	STANTEC CONSULTING SVCS, INC.	1020200	5,257.00
02/13	02/08/2013	38329	7027	TECHXTEND	1020200	1,059.60
02/13	02/08/2013	38330	7493	UNIFIRST CORPORATION	1020200	1,157.15
02/13	02/08/2013	38331	7510	UNITED FIRE EQUIPMENT COMPANY	1020200	282.18
02/13	02/08/2013	38332	5211	VERIZON BUSINESS	1020200	225.59

GL Period	Check Issue Date	Check Number	Vendor Number	Payee	Check GL Account	Amount
02/13	02/08/2013	38333	7667	VERIZON WIRELESS	1020200	359.70
02/13	02/08/2013	38334	7671	VOYAGER FLEET SYSTEMS INC	1020200	8,875.45
02/13	02/08/2013	38335	7712	WEST PAYMENT CENTER	1020200	272.33
Grand Totals:						223,071.68

Summary by General Ledger Account Number

GL Account	Debit	Credit	Proof
1020200	.00	223,071.68-	223,071.68-
10-22250	25,010.50	.00	25,010.50
10-22255	8,888.32	.00	8,888.32
10-22265	1,422.08	.00	1,422.08
10-22280	43,948.44	.00	43,948.44
10-22281	1,858.76	.00	1,858.76
10-22282	88.43	.00	88.43
10-22285	659.33	.00	659.33
10-22287	159.72	.00	159.72
10-22290	1,056.00	.00	1,056.00
10-22292	372.89	.00	372.89
10-41-230	127.50	.00	127.50
10-41-310	164.13	.00	164.13
10-41-330	2,010.00	.00	2,010.00
10-41-335	88.00	.00	88.00
10-41-410	21.92	.00	21.92
10-41-415	75.22	.00	75.22
10-41-430	433.47	.00	433.47
10-41-470	27.60	.00	27.60
10-41-542	332.74	.00	332.74
10-41-620	1,000.00	.00	1,000.00
10-41-630	29.56	.00	29.56
10-41-635	1,344.60	.00	1,344.60
10-41-640	219.81	.00	219.81
10-41-660	341.33	.00	341.33
10-41-705	567.27	.00	567.27
10-42-580	14.57	.00	14.57
10-42-591	57.96	.00	57.96
10-43-330	67.50	.00	67.50
10-43-340	46.21	.00	46.21
10-43-470	27.60	.00	27.60
10-43-610	21.79	.00	21.79
10-43-640	32.06	.00	32.06
10-43-660	117.08	.00	117.08
10-45-300	8,145.88	.00	8,145.88
10-45-320	10.25	.00	10.25
10-45-330	1,130.00	.00	1,130.00
10-45-410	345.07	.00	345.07
10-45-415	542.73	.00	542.73
10-45-430	123.62	.00	123.62
10-45-580	20.00	.00	20.00
10-45-590	320.00	.00	320.00
10-45-595	140.00	.00	140.00
10-45-610	249.21	.00	249.21
10-45-640	251.18	.00	251.18

GL Account	Debit	Credit	Proof
10-45-660	2,872.46	.00	2,872.46
10-45-670	455.27	.00	455.27
10-45-710	1,105.00	.00	1,105.00
10-46-300	5,000.00	.00	5,000.00
10-46-430	35.02	.00	35.02
10-46-432	114.19	.00	114.19
10-46-640	500.19	.00	500.19
10-46-650	804.66	.00	804.66
10-46-660	718.79	.00	718.79
10-46-670	380.75	.00	380.75
10-46-703	394.14	.00	394.14
10-49-415	272.70	.00	272.70
10-49-430	88.31	.00	88.31
10-49-630	1,365.56	.00	1,365.56
10-49-640	123.21	.00	123.21
10-49-696	436.12	.00	436.12
10-50-410	126.85	.00	126.85
10-50-415	119.42	.00	119.42
10-50-430	185.38	.00	185.38
10-50-470	80.72	.00	80.72
10-50-640	699.52	.00	699.52
10-50-660	674.88	.00	674.88
10-56-300	1,316.00	.00	1,316.00
10-56-330	135.00	.00	135.00
10-56-340	195.00	.00	195.00
10-56-610	60.98	.00	60.98
10-57-415	41.01	.00	41.01
10-57-430	61.18	.00	61.18
10-57-432	35.28	.00	35.28
10-57-640	5.63	.00	5.63
10-57-642	4.32	.00	4.32
10-57-660	21.65	.00	21.65
10-58-520	16.41	.00	16.41
10-58-545	130.00	.00	130.00
10-58-546	27.54	.00	27.54
10-60-430	37.00	.00	37.00
10-60-540	800.00	.00	800.00
10-60-580	32.93	.00	32.93
10-60-640	84.80	.00	84.80
10-61-300	272.33	.00	272.33
10-61-580	12.53	.00	12.53
10-61-610	10.83	.00	10.83
10-62-330	652.50	.00	652.50
10-62-590	30.00	.00	30.00
10-64-330	45.00	.00	45.00
10-65-410	604.04	.00	604.04
10-65-415	7.74	.00	7.74
10-65-430	126.64	.00	126.64
10-65-640	351.56	.00	351.56
10-65-650	125.95	.00	125.95
10-65-660	106.16	.00	106.16
14-40-340	136.53	.00	136.53
14-40-415	99.17	.00	99.17
14-40-640	32.72	.00	32.72
14-40-660	2,008.35	.00	2,008.35
14-40-670	385.00	.00	385.00
14-40-705	4,663.50	.00	4,663.50

GL Account	Debit	Credit	Proof
15-40-057	628.40	.00	628.40
15-40-065	5,700.73	.00	5,700.73
15-40-075	175.00	.00	175.00
15-40-082	5.09	.00	5.09
20-40-300	2,915.24	.00	2,915.24
20-40-430	177.90	.00	177.90
20-40-470	109.36	.00	109.36
20-40-640	193.57	.00	193.57
20-40-660	880.92	.00	880.92
46-41-718	5,257.00	.00	5,257.00
46-46-100	359.70	.00	359.70
50-12500	7.39	.00	7.39
50-22900	32.35	.00	32.35
50-40-340	43.44	.00	43.44
50-40-430	77.22	.00	77.22
50-40-470	141.52	.00	141.52
50-40-602	48,570.99	.00	48,570.99
50-40-610	117.45	.00	117.45
50-40-640	317.05	.00	317.05
50-40-660	1,426.33	.00	1,426.33
50-40-670	60.00	.00	60.00
51-22900	37.51	.00	37.51
51-40-300	862.72	.00	862.72
51-40-301	201.00	.00	201.00
51-40-340	43.44	.00	43.44
51-40-430	46.67	.00	46.67
51-40-470	82.80	.00	82.80
51-40-640	367.03	.00	367.03
51-40-660	1,049.86	.00	1,049.86
52-40-300	25.00	.00	25.00
52-40-301	137.40	.00	137.40
52-40-330	135.00	.00	135.00
52-40-340	43.44	.00	43.44
52-40-410	60.75	.00	60.75
52-40-430	273.42	.00	273.42
52-40-470	82.80	.00	82.80
52-40-640	631.16	.00	631.16
52-40-660	941.26	.00	941.26
52-40-670	966.31	.00	966.31
55-40-300	60.00	.00	60.00
55-40-310	2,080.53	.00	2,080.53
55-40-340	1,698.19	.00	1,698.19
55-40-410	977.25	.00	977.25
55-40-415	40.00	.00	40.00
55-40-430	443.40	.00	443.40
55-40-600	148.99	.00	148.99
55-40-610	37.06	.00	37.06
55-40-630	62.39	.00	62.39
55-50-300	115.00	.00	115.00
55-50-410	369.29	.00	369.29
55-50-415	81.89	.00	81.89
55-50-430	776.64	.00	776.64
55-50-470	154.26	.00	154.26
55-50-600	568.35	.00	568.35
55-50-660	32.45	.00	32.45
55-50-670	94.12	.00	94.12
55-50-710	4,800.00	.00	4,800.00

GL Account	Debit	Credit	Proof
55-60-300	189.00	.00	189.00
55-60-310	1,913.55	.00	1,913.55
55-60-415	35.00	.00	35.00
55-60-420	160.99	.00	160.99
55-60-440	40.09	.00	40.09
55-60-470	108.79	.00	108.79
55-60-605	118.98	.00	118.98
55-60-630	407.50	.00	407.50
56-40-300	1,000.00	.00	1,000.00
56-40-430	35.00	.00	35.00
70-40-660	2,200.00	.00	2,200.00
Grand Totals:	223,071.68	223,071.68-	.00

Dated: _____

Mayor: _____

City Council: _____

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City Recorder: _____

Report Criteria:
Report type: Summary
Check.Type = {<>} "Adjustment"