

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD MARCH 12, 2012, AT 7:00 P.M.  
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**CALL TO ORDER:**

Acting Mayor McGoffin called the meeting to order at 7:00 p.m. with the pledge of allegiance. Acting Mayor McGoffin then introduced Steve Medeiros of the New Life Family Worship Center who gave the invocation.

**ROLL CALL:**

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

**EMPLOYEE RECOGNITION:** None.

**PROCLAMATION:** None.

**PUBLIC HEARING:** None.

**CALL TO THE PUBLIC:**

Charlie Taylor addressed Council stating the Council is sworn to protect and care for the community, adding unfortunately, there is a church being built in the City that has a long history of sexual abuse within the Diocese of Arizona. Mr. Taylor then stated he has been in a 20-year legal battle with this Diocese of Arizona and he has received a letter of apology from the church. Mr. Taylor then stated he is prepared, because of his concern for the children of this community, to file a \$250 million lawsuit on behalf of all the victims of sexual abuse within this Diocese of Arizona, against the City, because of the fact that the City has allowed this church to be built with full knowledge of what has transpired. Acting Mayor McGoffin interrupted Mr. Taylor, telling him the Council receives comments regarding things they have jurisdiction over and if he has an issue with permits, he should address the Planning & Zoning Department. Mr. Taylor then stated he has addressed the building issue, but the issue is also about the protection of the children in the community and he felt the City had not done a good job of that if they allowed this to continue. Acting Mayor McGoffin then interrupted Mr. Taylor again, stating she remembered when Mr. Taylor addressed the Council concerning this issue before and previous Mayor Fenn had explained that while he was sorry about the situation, the Council meeting was not the time or place for this discussion. Acting Mayor McGoffin then told Mr. Taylor the Council didn't have any jurisdiction over the situation and reiterated the Council meeting was not the place to discuss it.

JT Moffett addressed Council stating he was working with some of the 4th Street businesses to revitalize or resurrect the Benson's Merchant Association to get some things done for the small business people in the community. Mr. Moffett then stated he didn't want to discuss anything too negative, but he did want to discuss Mr. Lotsof's, of CAVE radio, request of the Council to make an exception in the codes so Mr. Lotsof could replace the trailer the radio station is located in. Mr. Moffett then stated Mr. Lotsof's situation is similar to the Chamber of Commerce coming to the Council and wanting their money and after the Chamber doesn't get what they want, they sit and pout and don't support the Bluegrass Festival. Mr. Moffett then stated he finds the same thing with the radio station, adding since Mr. Lotsof hasn't gotten his trailer, all Mr. Moffett hears from Mr. Lotsof's commentaries are slanderous things and mockery, with Mr. Lotsof putting down the newspaper, the Council and Mr. Moffett. Mr. Moffett then stated he thinks it is the radio station's obligation to a community to report the news and it should not be used as a personal and vindictive weapon. Mr. Moffett then asked what Mr. Lotsof does for the community besides reporting opinions and not news, adding he thinks the FCC would agree with him and he has written them a letter

asking what the requirements are for radio stations and when he gets a response, he will be back before the Council because he thinks it is important that Mr. Lotsof be held accountable. Mr. Moffett then invited the Council to attend the public forum Thursday night at 6:30, adding there have been some good discussions and he has had some really good feedback about the Council being present. Mr. Moffett then stated there are some very important issues they are going to discuss and the Council's constituents would be very pleased to have them attend.

Glenn Nichols addressed Council stating Stephen Insalaco could not be here tonight, but wrote a letter to the Council regarding the ban on texting. Mr. Nichols then read the letter which will be retained with the Council packet.

Peter Wangsness addressed Council stating a year ago, the State of Arizona chose not to pass a law on cell phones and texting, citing one of the reasons was a report from the Highway Loss Data Institute, a division of the Insurance Institute for Highway Safety, which found in their surveys, that passing laws like this actually increased traffic accidents from 1 to 9% in related accidents. Mr. Wangsness then gave a copy of the report to Council.

### **CITY MANAGER REPORT:**

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

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| March 13, 2012 | – | Library Advisory Board, 4:00 p.m., Library  |
| March 17, 2012 | – | Historic Preservation Commission, 9:00 a.m., City Hall                                |
| March 20, 2012 | – | Planning & Zoning Public Hearing Zoning Regulations Update, 7:00 p.m., City Hall      |
| March 22, 2012 | – | Planning & Zoning Pubic Hearing General Development Plan Update, 7:00 p.m., City Hall |
| March 26, 2012 | – | City Council Meeting, 7:00 p.m., City Hall  |
| March 27, 2012 | – | Community Watershed Alliance, 6:30 p.m., City Hall                                    |

Mr. Nichols reminded those present of the continuing work on the I-10/State Route 90 Traffic Interchange project, adding up-to-date information can be found at [www.azdot.gov](http://www.azdot.gov).

Acting Mayor McGoffin then stated Mayor King should be back at the end of the week and she would be returning to the position of Vice Mayor. Acting Mayor McGoffin then stated she appreciated the patience shown with her, adding this meeting should be the last meeting she chairs.

### **NEW BUSINESS:**

#### **1. Consent Agenda**

- 1a. Minutes of the February 27, 2012 Regular Meeting
- 1b. Resolution 12-2012 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to apply for a Governor's Office of Highway Safety Grant to fund the purchase of extrication equipment
- 1c. Invoices processed for the period from February 15, 2012 through February 29, 2012

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

#### **2. Resolution 13-2012 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to execute a Cooperative Fire Rate Agreement with the Arizona State Forester**

Fire Chief Keith Spangler addressed Council stating this agreement will enable the City to be paid for the

use of our apparatus and will pay the firefighters for going out on roadside fires as well as mutual aid fires the State is in charge of. Chief Spangler then stated it also will include extended assignment fires and large-scale project fires, like the Wallow Fire. Councilmember Maldonado verified the City would maintain coverage before committing to requests outside the City limits with Chief Spangler confirming coverage for the City would be the first priority. Councilmember Brooks asked if the agreement covered all fire department equipment with Chief Spangler verifying anything from the brush truck to the type 1 or type A engine could be requested. Councilmember Lambert then asked about the rates for the different types of equipment and the start and stop times for the hourly rates with Chief Spangler stating he gave Council in their packets, the rates for the particular apparatus, adding personnel are paid at different rates, depending on their qualifications. Chief Spangler then stated depending on the size of the fire, the agreement allows between 30 minutes to an hour to rehabilitate the equipment once it gets back to the station, adding the time billed starts when the equipment leaves the station and ends when the equipment returns to the station, plus the rehabilitation time of 30 minutes to an hour. Councilmember Brooks moved to approve Resolution 13-2012. Seconded by Councilmember Maldonado. Motion passed 6-0.

3. **Discussion regarding the City of Tucson's recent ordinance prohibiting the use of personal digital assistants while driving**

Acting Mayor McGoffin stated she requested this item be placed on the agenda for discussion to see what the public, the Chief of Police and the Council thought about the issue. Acting Mayor McGoffin then stated in Tucson she had seen a lot of people texting and reading from books and electronic tablets while driving.

Councilmember Brooks stated he had spoken with Police Chief Moncada and City Manager Glenn Nichols and he felt they both had good views on the situation. Councilmember Brooks then stated it would be hard to enforce code like this, adding you have to be able to prove a person was actually texting and to do that, phone logs would have to be requisitioned to be able to convict someone, adding it would be pricy and would result in litigation. Councilmember Brooks then said the State is working on this issue, adding it would be better to enforce a statewide law instead of a City law that people from other cities may be unfamiliar with. Councilmember Brooks then stated he would like to see the utility bills include a reminder about the dangers of driving while using digital devices or other items that can distract drivers.

Councilmember Maldonado stated he has also seen people driving in Tucson while using computers and drivers should be alert and aware of other drivers. Councilmember Moncada said the State is looking at a bill he believes bans texting for drivers under the age of 18, adding the State currently has a law regarding distracted drivers in which drivers can already be cited for texting and stated he doesn't believe another law, which would be costly and hard to enforce, is needed at this time. Councilmember Sacco agreed stating, the bill is in the Senate and has a good chance of passing, so he did not think it needed to be addressed at the City level.

Councilmember Lambert then stated he agreed with Mr. Insalaco's statement at the Call to the Public, that there are many different devices that can distract drivers, including the type of GPS system in his car, adding even though the device states it can not be used while driving, he knows there are ways to disable that feature and people will find ways around everything. Councilmember Lambert then stated currently, if a police officer sees someone who is texting, is distracted or crosses their lane lines, the officer can come up behind them and see if they are driving dangerously, adding he agrees with Councilmember Brooks that with this type of legislation, it would be difficult to prove whether a driver was texting or reaching for a cup of coffee and there would be a lot of legalities to consider before getting to the point of passing a City law.

Councilmember Maldonado and Lambert then asked about law enforcement's use of devices while driving with Chief of Police Moncada stating per policy, officers can not access the computer system to run a license plate while the vehicle is moving. Chief Moncada then gave Council a copy of the proposed State legislation, adding the bill is virtually identical to what Tucson passed with a few minor exceptions. Chief Moncada then stated it would be a non-violation of the statute to enter a phone number into a cell phone to

make a call, adding the bill strictly deals with texting and is applied to all drivers, regardless of age, however exempts law enforcement, firefighters and emergency responders because of their devices, such as their radio.

Chief Moncada then stated electronic devices are a distraction and cause numerous accidents and while this is an issue that needs to be dealt with, if the State addresses it, he sees no need for the City to duplicate the law. Chief Moncada then stated if the Council would like to support the proposed legislation, they could send a letter expressing their support.

Acting Mayor McGoffin stated she appreciated the Councilmembers' opinions and would like to have a letter in support of the proposed legislation sent to the State. Council concurred.

Councilmember Brooks then asked Acting Mayor McGoffin to direct the City Manager to send out a mailer with the utility bills as a reminder to not be using electronic devices while driving. Council concurred and Acting Mayor McGoffin asked City Manager Glenn Nichols to have a reminder included with the utility bills.

**DEPARTMENT REPORTS:** None

**ADJOURNMENT:**

Councilmember Sacco moved to adjourn at 7:28 p.m. Seconded by Councilmember Lambert. Motion passed 6-0.

ATTEST:

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Toney D. King, Sr., Mayor

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Vicki L. Vivian, CMC, City Clerk