

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD MARCH 9, 2015 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 7:02 p.m. with the Pledge of Allegiance. Mayor King then introduced Pastor John Mitchell from the Church of our Savior who offered the invocation.

**ROLL CALL:**

Present were: Mayor Toney D. King, Sr., Vice Mayor Lori McGoffin, Councilmembers Pat Boyle, Jeff Cook, Joe Konrad, David Lambert and Peter Wangness (via phone).

**EMPLOYEE RECOGNITION:** None

**PROCLAMATION:** None

**PUBLIC HEARING:** None

**CALL TO THE PUBLIC:**

Jim Gray stated he had passed out a copy of a letter to the editor in the Sierra Vista Herald to the Council and the City Manager telling what taxpayers want. Mr. Gray then stated the Sierra Vista Council also selected members from the business community to come up with solutions to help solve their financial problems, adding he thinks it's a good idea. Mr. Gray then stated he has attended many Council meetings during the recession and the financial picture always seemed rosy, then 6 months after the Financial Director retired; the City is broke. Mr. Gray then stated in 2010, the Council not only voted to refinance the wastewater treatment plant, which would have been paid off in 2018, but they also borrowed an additional \$3 million, which raised the monthly payment and extended payments until 2028. Mr. Gray then stated the Council is now suggesting a 1% sales tax increase that will hurt everyone in and around the town, including poor people, people on fixed incomes, businesses and future business possibilities. Mr. Gray stated Benson already has a high sales tax, has food tax, renter's tax, bed tax and property tax. Mr. Gray then stated there are a lot of vacant buildings in Benson, adding if anyone drives to Willcox, they can see Willcox's high sales tax had made it a ghost town. Mr. Gray then stated the City of Benson has plenty of income coming in; it's just being mismanaged, adding you can't keep spending more than you make. Mr. Gray then stated during the worst recession in 85 years, the City of Bisbee eliminated 26 positions in Bisbee and Sierra Vista eliminated 70 positions, while Benson added City positions. Mr. Gray then stated this Council needs to direct the City Manager to balance the budget without raising taxes and without any negative effect on the City Manager. Mr. Gray then stated the City Manager should know the City's strengths and weaknesses by now and the Council does not. Mr. Gray then stated there are solutions to all the problems, adding people need to get together as a City and find out how to solve those problems but one solution is no new taxes.

Art Bale gave a brief background of himself, stating he doesn't like being here complaining because he is a go-getter and a fixer, adding he retired from the Air Force in 1982 with 25 years of service and he has been trained as an efficiency expert in manpower. Mr. Bale then stated he could go into any place with a few people, sit for a couple weeks and tell what the manpower level should be, what the pay level should be and how many widgets they should produce. Mr. Bale stated to raise taxes without cleaning house is unbelievable. Mr. Bale then stated he recently heard a commentary on the radio from Paul Lotsof, who he respects, that the City Manager makes less than someone making \$90,000 in the City organization, adding that is unreal and he can't believe anyone in the City makes \$90,000. Mr. Bale then stated he came here in 1995 because his wife wanted to be by their grandkids, adding he has been in real estate for 30 years and he decided to build an RV park here because Kartchner Caverns was opening, adding he has several million

invested in Cochise Terrace. Mr. Bale then stated his park was completed 2 years ahead of the caverns, so he needed to be mobile, like the City should be and he started selling off lots to make his payments. Mr. Bale then stated the crash started in 2007 and 2008 with RVers' lifestyle changing due to the price of gas, so he changed again, selling manufactured lots, resulting in his park having deeded RV sites, deeded manufactured home sites and 145 RV sites. Mr. Bale then stated he supports no tax because his clients are all senior citizens on fixed incomes, adding he has been here long enough to see Pima County try to charge a \$.50 bed tax several years ago and the RVers just scattered. Mr. Bale then stated he thinks a lot of work needs to be done in the City and thinks it is just super cowardice for the bean counters to say to raise the tax rate. Mr. Bale stated the tax increase would mean a little more money for a little while, but it won't solve the problem that's been created over the years. Mr. Bale then stated he started his dream RV park in 1995 and has been through thick and thin with the City, adding he wants to see the City grow because it's a neat place, but added, working with the City was not so neat. Mr. Bale then stated there are some employees who do a good job, but the people in authority who really don't have any authority and should be called executors, have a no help attitude instead of a can do attitude. Mr. Bale then stated the City has now outsourced engineering to Brown & Associates in Tucson, who knows little to nothing about Benson instead of hiring someone within the Building Department who can look at a plan. Mr. Bale then stated when he puts a manufactured home in the ground, he has to get everything approved by the City and pay the fee, adding in Cochise Terrace, it costs \$8,500 for a building permit, but if the same plan was down in town, it would cost \$500. Mr. Bales then stated that was discrimination. Mr. Bales then stated when he sells a house in Cochise Terrace, he pays \$4,000-\$8,000 in sales tax, adding he would think the City would be helping him put manufactured homes in just because of the tax. Mr. Bale then stated another concept the Council should look at is to lease the golf course to a civilian entity and get a \$2,000 or \$3,000 monthly payment to have a positive cash flow instead of a draining cash flow. Mr. Bale then stated someone has to stand up in a group, adding he has been watching the Council for 15 years and was shocked that Councilmembers only make \$200 a month, adding they take their own personal time to go out, explore and do their due diligence on issues that come before the Council. Mayor King then informed Mr. Bale that his time to address the Council had expired.

David DiPeso stated he was against the tax increase, adding he is associated with Cochise College and they have had to cut their budget for 6 years in a row now and this year is going to be even worse because the State reduced their budget too. Mr. DiPeso then stated he doesn't think it's a bad thing; he thinks it's a cycle they have to go through and it's good for government to have to become lean and mean and cut the fat. Mr. DiPeso then stated Cochise College is making budget cuts, adding they have had to raise tuition a little bit, but they tried to hold it to a minimum. Mr. DiPeso then stated he thinks the City needs to look at that too; places where cuts can and should be made and places where more money can be made, which is where he was spending most of his time looking, adding El Dorado is going to come to Benson and he would bend over backwards to get those people here. Mr. DiPeso then stated he would look at Mr. Lotsof's Planning & Zoning problems, adding whether you agree with people or not, the codes the City has are very difficult and costly for small businesses. Mr. DiPeso then stated a review committee or something can alleviate that to help small businesses get started would help generate income. Mr. DiPeso then stated the Council also needs to be looking at economic development to bring more people in to create sales tax. Mr. DiPeso then stated Wal-Mart brings in a ton of money that the City never had when he was on the Council, adding the City hasn't really grown that much since then, so the Council should be able to live within their budget without raising taxes. Mr. DiPeso then stated it's very negative when someone sees the City with a huge tax burden, adding small businesses don't want to come in, people don't want to buy here and it's not good for growth or economic growth, stating he would focus on economic growth if he was sitting with the Council and taxes are not economic growth.

Nancy Iverson stated she owned the Sahara Motel on Highway 80 for 35 years and she was here also protesting the sales tax increase in addition to other things. Ms. Iverson stated business owners are already struggling and if the Council thinks taxes are the answer, they should think again. Ms. Iverson stated City problems began several years ago when the Council decided to hire within the City, rather than attempt to hire a real City Manager, adding the Council allowed Staff to tell the Council how to run the City when the Council was and is the governing body of Benson, Arizona. Ms. Iverson then stated now the City is in financial trouble and after hearing Megan Moreno's financial reports and learning how dollars were spent

and squandered, it's no wonder, adding she is thankful Ms. Moreno was hired so the public could at last get an accurate financial accounting. Ms. Iverson then stated golf courses are needed in retirement settings such as Benson and she understands that, but the management of the golf course the City was given was a fiasco and the Council needs to take that responsibility, adding when a restaurant isn't making money, you find out why. Ms. Iverson then stated the City could close the restaurant at the golf course and put in vending machines, adding there are enough restaurants in town and the City shouldn't be in competition with local restaurant owners. Ms. Iverson then asked how many tax dollars have gone into this business since it was given back to the City and she was using the word "given" loosely. Ms. Iverson then stated she knows Ms. Moreno has an accurate accounting of the City when she was there, but no one knows before that. Ms. Iverson then asked how many cities the size of Benson own a golf course and asked why the City doesn't sell or lease it to a corporation that knows how to make money, because obviously Benson doesn't. Ms. Iverson then stated all the businesses on Highway 80 are struggling since Turquoise Hills went under, adding that golf course was perfect for senior citizens and created a lot of business. Ms. Iverson then stated if a tax increase goes through, there will be more people leaving and tax dollars will be lost. Ms. Iverson then stated the City now has prisoners trimming trees and removing weeds and asked what the Street Department employees are doing, adding she never sees City work crews out doing any of that, however, she sees them driving pickups in and out of the City limits. Ms. Iverson then asked about retiring a few City employees instead of hiring more. Ms. Iverson then stated the Councilmembers are the bosses of the City and asked them to be responsible and act like the bosses by talking to some business owners and cutting the budget.

Theresa Bennett stated she and her daughter have owned Junction Express for 18 years and she is here tonight because she believes the City has not done enough research on the importance of the impact of raising taxes. Ms. Bennett then asked if the Council knew where people go to buy fuel, adding there is no doubt if someone is in Tucson, they will buy their fuel before leaving Tucson because it costs less and they can save as much as \$.20 a gallon. Ms. Bennett stated Tucson doesn't tax food, unlike Benson, adding most people go to Tucson for entertainment, doctor appointments, shopping, and for needs Benson does not have or offer and when they are in Tucson, they will start to buy food because Safeway prices are higher than most food stores. Ms. Bennett then stated if a person shops at Wal-Mart, they can save a little, but now there's a new Wal-Mart on Houghton Road and people can just stop on their way back to Benson and buy what they need without having to pay high taxes. Ms. Bennett stated this tax increase doesn't sound like a lot until you put it all together and it will add up to enough savings that people will go to Tucson just like they do now and fill up their gas tanks for \$.20 a gallon less. Ms. Bennett then stated if Councilmembers aren't in retail business, they don't hear what customers are aware of, adding customers question tax on food and how expensive it is to live in Benson with the cost of food and fuel being higher. Ms. Bennett stated the City wants more housing, but the people the Council thinks are going to support Benson by living in Benson and working in Tucson will do their shopping in Tucson before they come home because Benson's taxes are way too high. Ms. Bennett then stated businesses are moving closer and closer to Benson, making it easier to shop where prices are lower and savings are greater, adding she would strongly urge the City to rethink what they're doing by raising taxes. Ms. Bennett then told the Council to do their jobs to protect the City and the businesses that are struggling to stay in Benson, adding if they haven't taken a stroll down 4th Street lately, she strongly suggests they do so before making any decisions, noting there are vacant stores and abandoned buildings. Ms. Bennett stated she has lived in Benson for 25 years and it's basically no different now than it was 25 years ago, adding there are more vacant stores and abandoned store fronts than ever with store owners getting older and wanting to sell or retire and get out of the business. Ms. Bennett then stated raising taxes is not the way in; it will be the way out.

Bob Benson stated he has been in town since 2006 and has been the manager at Barnett's Propane on 4th Street for 4 years. Mr. Benson then stated this town is dependent on winter visitors and the Council doesn't know how many winter visitors he has heard in the last 2 years say they are being taxed to death with taxes on food and fuel. Mr. Benson then stated this town had 4,900 people when he moved in and has 5,300 now, which is not much growth in 5 or 6 years, adding people are moving out faster than they are moving in. Mr. Benson then stated the Council needs to think about that, adding raising taxes is not the way to go. Mr. Benson then stated he has laid off 2 employees because business is down and there are no winter visitors. Mr. Benson stated he lives in the San Pedro Mobile Home Park, which has maybe 45 or 50%

occupancy, adding when he first moved there; it was 100% full all the time. Mr. Benson then stated taxing people coming into town and raising taxes is not going to cut the budget.

Lupe Diaz stated he was the President of the Chamber of Commerce and the Pastor of Grace Chapel. Mr. Diaz then stated the Council has a tough job, adding one of the things the City is facing is being able to eat a \$1.1 million shortfall, which is a big task. Mr. Diaz then stated he would like to not see the taxes increased, especially if there are some creative solutions to the problem. Mr. Diaz then stated people may think 1% is just 1%, but Oro Valley is in battle right now over a ½% tax raise, adding a lot of people say it's because of what they are spending it on, and while that could be part of the equation, he doesn't think so. Mr. Diaz then stated it's such a serious thing that Oro Valley has a recall going right now with the Mayor and 3 City Councilmembers. Mr. Diaz then stated the State of Arizona has just balanced their budget and they cut back on a lot of things, adding a lot of people are squawking right now because the State budget affects schools and government agencies as well as the City of Benson, but the State did what they had to do, which included selling some of their assets and State buildings, in order to balance their budget. Mr. Diaz then stated the State didn't turn to the citizens of the State, but instead, they tightened up things, sold things and reduced their workforce, adding he thinks those are important things to look at. Mr. Diaz then stated he has heard a lot of people say that Benson is a family and part of the problem of being a family is that you will tolerate a lot of things and you don't want to fire a relative. Mr. Diaz then spoke about organizational models stating one is a team, adding a team has a goal, wants to win, has certain roles and to belong, you have to be productive. Mr. Diaz then stated the next organizational model that he is aware of is like special forces, such as the seals and is very specialized with skilled people, so the higher you go up in this organizational model, the higher skilled people you need. Mr. Diaz then stated one of his thoughts about the furloughs is that they are counterproductive because the City is going to start losing the best employees, adding it has already started losing some of its best employees. Mr. Diaz then stated the reason for the furloughs is that it's easier for people to make up their own minds and leave the City rather than taking charge and determining who gets fired, adding the Council should forget about hiring for a survey because they know who needs to be fired and what needs to be reduced. Mr. Diaz then stated if furloughs stay in place, the City is going to lose its most skilled people and won't have the people needed to continue running the City in a good manner. Mr. Diaz then stated when the Council takes charge; they determine who will be kept. Mr. Diaz then stated the employees signed up for a full-time job and he thinks that is important, adding he knows that morale is down right now. Mr. Diaz then stated the City could offer the golf course to El Dorado Holdings, adding that was an idea from a Chamber of Commerce member. Mr. Diaz then stated the Building Department was brought up earlier, so he didn't think he needed to mention it, then stated the Engineering Department doesn't have to contract everything out, especially when there is an in-house engineer, adding he is looking at the position, not the person. Mr. Diaz then stated he knows a recommendation was made to use a utility management company to manage the water and the gas company, adding if that happens, the utility management company will hire the City employees that the Council is afraid to let go, so it's a win/win situation and he thinks that should be considered. Mr. Diaz then stated the Council should keep their \$200 a month, adding he thinks that is a drop in the bucket of the \$1.1 million. Mayor King then informed Mr. Diaz that his time to address the Council had expired.

Paul Lotsof, the Manager of CAVE FM, stated he wouldn't be surprised if he had the dubious distinction of having attended more meetings of the Benson City Council than any other person alive, adding he would guess he had attended over 700 meetings. Mr. Lotsof then stated anyone who has attended that many meetings is bound to reach some conclusions, adding the top two things he has learned from attending is that grant monies are a national scandal and are largely spent on projects with questionable value and incredible inefficiency and that a large percentage of what goes on in these chambers falls under the heading of avoiding blame. Mr. Lotsof then stated everyone wants to take the credit if things are going well, but no one wants to be blamed when things are going afoul, adding the Council escapes blame by being a rubber-stamping operation that hires a City Manager and Staff and then does as they're told. Mr. Lotsof then stated when things go well, the Council pats themselves on the back for hiring such a wonderful Staff and if things go sour, they fire the Staff and then commend themselves for fixing the problem, so no matter what happens, the Council comes out smelling like a rose. Mr. Lotsof stated this also explains why 2/3 of all Benson City Managers have been fired. Mr. Lotsof then stated the problem with having a City Council that does little beside rubberstamp Staff, is the obvious drawback that the Staff

might not know any more than the Council does and in some cases, the Staff might not even care what is in the best interest of the Benson community. Mr. Lotsof then stated the recent dealings between the Benson City government and CAVE FM are a nice example of how rubberstamping the Staff works to the detriment of all concerned. Mr. Lotsof then stated the Council is aware that the City is experiencing serious financial problems with revenues not equaling expenditures, needing more sales tax and that the tax base isn't large enough, adding there aren't enough retail sales to generate the required revenue. Mr. Lotsof then stated unfortunately, no one on the City Staff is skilled in business development and no one seems to understand the importance of maintaining a good public image, including the City Attorney and the Building and Zoning Staff. Mr. Lotsof then stated no one seems to understand the damage that has been done to Benson's public image with such affairs as the Stagecoach Trails lawsuit, which revolved around an attempt by a local property owner to replace an old trailer with a newer one. Mr. Lotsof stated the Stagecoach Trails suit was extensively covered in the media and the only winners were the lawyers, which includes (former City Attorney) Michael Masee, adding the City Council rubberstamped him and he walked off with tens of thousands of dollars in City funds for delaying the settlement. Mr. Lotsof then stated there is now a similar situation with his local radio station wanting to replace an old trailer and running into nothing but flack from the City government, including the City Attorney. Mr. Lotsof then stated not only have his problems been broadcast on a powerful radio station but they've also been extensively covered in both the News-Sun and the Sierra Vista Herald. Mr. Lotsof then asked the Council to put themselves in the position of a potential investor and asked if they would want to set up shop in a community that has contempt for property rights, if they would want to invest in a community that is running the local radio station out of town over a parking lot and if it was good public relations to throw out a media company. Mr. Lotsof then stated it's not just Stagecoach Trails and CAVE FM that have problems, adding two weeks ago, the chairman of the City's Economic Development Committee informed the Council of two other business owners who were having issues with the City. Mr. Lotsof then stated a good chunk of CAVE FM's business is promoting sales of Benson businesses, which generates sales tax revenue for the City. Mr. Lotsof then asked the Council if they were aware of the City's advertising tax, adding when the radio station sells advertising to businesses in other communities, such as Sierra Vista, the advertising tax goes entirely to Benson. Mr. Lotsof then stated running the radio station out of town will mean losing some revenue and most importantly, the bad publicity will damage Benson's regional image so maybe now is the time for a little common sense to rear its ugly head. Mr. Lotsof then stated the City Attorney and the City Zoning people will tell the Council to do nothing, but maybe this will be a good time for two Councilmembers to take the initiative and place something on the next Council agenda to reconsider Ordinance 574. Mr. Lotsof then stated maybe a time has come to recognize that Benson needs to improve its image from hostile to business friendly. Mr. Lotsof then asked the Council to put away their stamp pads and work with others to make Benson grow and prosper, adding no one will blame Council for keeping the local radio service.

Mark Fenn stated he had been living out of the country for some time and that it was good to be home and see everyone. Mr. Fenn then stated he didn't envy the position the Council is in right now, adding he understands maybe more than most what they are facing and experiencing as they hear these comments. Mr. Fenn then stated he didn't have any prepared remarks so he would be speaking from the heart and first wanted to express his appreciation for the service the Council is giving. Mr. Fenn then stated if the Council counted all the time they put in as a Councilmember, the monthly salary of \$200 and \$400, would equate to less than minimum wage. Mr. Fenn then stated he would also like to say hello to the new City Manager, who he has not yet formally met and to say hello to the rest of the City Staff here tonight. Mr. Fenn then stated regarding the sales tax, he would implore the Council to pretend an increase isn't an option and see what other things could be done to make up the shortfall, adding the Council has been dealt a blow with the State budget that was just passed and the repercussions are probably still yet to be felt. Mr. Fenn then stated he recalls from his time served on the Council that the Council relied on information that was given to them from City Staff and from their own research, adding sometimes Councilmembers just have to go with their gut feeling and instinct and hope that it turns out good. Mr. Fenn then stated as he looks back on past decisions he and the Council made, he could see that some decisions were good and some weren't so good, adding he takes full blame for anything that didn't work out as the Council hoped it would. Mr. Fenn then stated much has been said and many ideas have been given tonight, adding he would ask Council to consider those ideas and involve the business community, who are those who have to make a payroll,

provide a service and make a profit in this City to stay viable and he would hope that the Council would consider their ideas and call them in. Mr. Fenn then spoke about the issue the radio station is experiencing, adding with his experience as a builder in this community, he feels it is sometimes difficult to do business. Mr. Fenn then spoke about business and home construction being down and people choosing to build in the City vs. the County, noting construction sales tax, which is another discussion for another day, is revenue for the City when construction is within the City limits and the City should be helpful with the building process. Mr. Fenn then stated again, he appreciates the work the Council is doing and the services provided here, adding in Argentina, where he lived for 3.5 years, they have much worse problems with 30% inflation, very high taxes, the people are oppressed and it's just short of anarchy with a lot of unrest and insecurity. Mr. Fenn then stated he has lived and experienced it, where the people don't know where to turn and just have to survive and provide for themselves.

Jeff Cook stated he was going to start by saying he wasn't taking a side, but he thought about it and he is taking a side on the issue. Councilmember Cook stated he shares all the concerns everyone in this town has and that the speakers have expressed here tonight, adding he also shares the concerns of the Council and the hard place they've been put in to deal with the budget, the Staff and all the difficult things the Staff has had to go through so far, noting the budget still isn't settled. Councilmember Cook then stated he is on both sides of the issue and thinks that everyone in the public and everyone on the Council need to work together, adding they need to be realistic with suggestions, noting some of the suggestions are good, but some of them are just wishful thinking. Councilmember Cook then stated he understood from the Finance Director that by the time the City pays the bond fund payment and the Wal-Mart payment, there will still be a \$1 million loss this year, adding that is after cutting \$2 million from the current budget during the last budget season. Councilmember Cook then stated employees have been reduced by about 15%, which is around 15 employees. Councilmember Cook then stated he was curious, and while he didn't want to pit any side against another side, he would really like to know where else the Council should cut because the \$1 million still needs to be taken care of. Councilmember Cook asked if the Council should cut the pool and Lion's Park, then spoke about what could be expected from those cuts, such as graffiti, vandalism, drug problems, inactivity of the young people and asked what effect that will have on crime. Councilmember Cook then asked if the Council should make cuts in the Planning & Zoning Department even though El Dorado is coming in on Highway 90. Councilmember Cook then asked if the Council should cut the Gas Department, the Water Department and the Wastewater Department, adding all of those are actually losing money. Councilmember Cook then asked if the Council should cut the golf course, adding 2 people who spoke earlier, Art Bale and Jim Gray, rely on RVers for 6 months out of the year and both know and will tell the Council and everyone else in the City that RVers look for a golf course. Councilmember Cook then stated RVers also contribute a lot to the City's tax base. Councilmember Cook then asked if the Council should cut the library, the Police Department and the Fire Department, adding he understands that when the Police and Fire Departments are cut, it will likely be that no service will be provided between the hours of midnight and 6 a.m., which will force insurance rates up for every house and every business in Benson and would probably be more expensive than a \$.01 tax increase. Councilmember Cook then stated Council has already shut down City offices at City Hall and the Recreation Department 1 day a week; every Friday. Councilmember Cook then stated furloughs will have to continue if something isn't done, either by cutting somewhere or raising taxes. Councilmember Cook then stated, again, everyone is in this together and everyone needs to be realistic about suggestions, adding part of that realism is that whatever is done is going to hurt someone; probably everyone.

**CITY MANAGER REPORT:**

City Manager William Stephens addressed Council, stating he would like to introduce the new Finance Director, Dustin DeSpain. Mr. Stephens then gave the dates of upcoming meetings and events.

- Tuesday, March 10, 2015           – CANCELLED – Library Advisory Board, 4:00 p.m., City Library
- Saturday, March 21, 2015       – Historic Preservation Commission, 9:00 a.m., City Hall
- Monday, March 23, 2015       – City Council Worksession, 6:00 p.m., City Hall  
City Council Meeting, 7:00 p.m., City Hall
- Tuesday, March 24, 2015       – Community Watershed Alliance, 6:30 p.m., City Hall

## **NEW BUSINESS:**

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

1a. Minutes of the February 9, 2015 Regular Meeting

1b. Invoices processed for the period from February 12, 2015 through February 28, 2015

Councilmember Lambert moved to approve the Consent Agenda. Seconded by Councilmember Boyle. Motion passed 7-0.

### **2. Discussion and possible action on Resolution 9-2015 of the Mayor and Council of the City of Benson, Arizona, approving Pierce Wines Arizona, LLC's application for a March 21, 2015 Wine Festival License/Wine Fair License at the San Pedro Golf Course, 926 N. Madison, Benson, Arizona**

Deputy City Clerk Andrew Parkin stated Mark and Rona McMillan of Pierce Wines and Director of Golf Joe DeVecchio were present should Council have any questions. Councilmember Boyle asked Mr. and Mrs. McMillan to tell the Council about the event. Ms. McMillan stated the Chamber of Commerce was inviting winter visitors to the Golf Club and two wineries were going to be bringing over wine for sampling and purchase, adding the event is a chance to thank the winter visitors for coming to Benson. Councilmember Konrad stated this is for the winter visitors and hopefully there will be a lot of them attending and enjoying the event. Councilmember Lambert stated the layout of the event shown on the application includes an id checkpoint with certain sections being separated so people can come in and have their id checked before sampling the wines, adding he thinks it's a great event. Councilmember Cook stated events and tournaments produce revenue for the Golf Course and asked if Mr. DeVecchio could let the Council know on a regular basis, how much these help the Golf Course. Mayor King stated that was not on the agenda and couldn't be discussed.

Vice Mayor McGoffin moved to approve Resolution 9-2015. Seconded by Councilmember Lambert. Motion passed 7-0.

### **3. Discussion and possible action on Resolution 10-2015 of the Mayor and Council of the City of Benson, Arizona, approving Zarpara Vineyard's application for a March 21, 2015 Wine Festival License/Wine Fair License at the San Pedro Golf Course, 926 N. Madison, Benson, Arizona**

Mayor King stated this item is basically the same as the previous item. Councilmember Konrad moved to approve Resolution 10-2015. Seconded by Vice Mayor McGoffin. Councilmember Wangsness stated he would like to see this become an annual event, adding this would be good for the City. Motion passed 7-0.

### **4. Discussion and possible action on the Benson Economic Development Committee including the Resignation of Ron Brooks, the Resignation of Stephen Insalaco, the Appointment of Debra Crafts and the possible retention, reformation, or dissolution of the committee as in proposed Ordinance 576 of the Mayor and Council of the City of Benson, Arizona, amending the Benson City Code, Chapter 18 "Boards, Commissions and Committees," Article 18-6, "Benson Economic Development Committee" to disband and delete any reference to the Benson Economic Development Committee in the Benson City Code**

City Manager William Stephens stated this is the continuation of an item discussed in a previous Council meeting and the worksession earlier this evening, adding it is now on the agenda for Council to discuss, direct or take action. City Attorney Gary Cohen stated as a reminder, there needs to be an odd number of committee members, assuming the Benson Economic Development Committee (BEDC) continues. Mr. Cohen then stated accepting the two submitted resignations would reduce the committee to 7 members, adding one application for an appointment has been submitted, noting if the Council approved the application; the membership would then increase to 8 members, which can't be done. Councilmember Wangsness asked if the current application could be held until another application for an appointment was

submitted with Mr. Cohen stating the Council could choose to have that done. Councilmember Wangsness then stated whether there were 8 or 9 members; a vote of the majority would still require 5 votes with Mr. Cohen stating while that may be the case, the ordinance requires the committee to consist of an odd number of members. Vice Mayor McGoffin confirmed that the applicant to be considered for an appointment could still attend meetings and participate until the Council received another application to consider with Mr. Cohen stating that was correct. Councilmember Wangsness asked what would have happened had only one resignation had been submitted; noting the membership would have dropped to 8 members with Mr. Cohen stating the application for the appointment could then have been considered and if approved, would have resulted in 9 members. Mr. Cohen then stated the Council just needs to act in good faith to have an odd number of members when they consider resignations and applications. Councilmember Wangsness stated there could be an even number of members temporarily if there were other resignations, adding the Council would then immediately put out a request for more volunteers with Mr. Cohen stating from a legal perspective, he discerns a difference between temporarily having an even number due to a resignation being submitted and the current situation where the Council has the option to either comply with the ordinance or not, but it was up to the Council how to proceed.

Councilmember Lambert stated he put this item on the agenda for the exact reason that the Council had two resignations and 1 application. Councilmember Lambert then stated since then he had a lengthy meeting with the BEDC Chairman, adding he also met with the applicant. Councilmember Lambert then stated he feels that it would be in the best interest of the committee if the Council approved the 2 resignations which would leave 7 members on the committee and suspend the application until another application is submitted. Councilmember Lambert stated he also spoke to Committee Member Jack Comaduran, who thinks he has someone who is going to be submitting an application and if that is so, the Council can consider appointing those two applicants, bringing the number of members back up to 9. Councilmember Lambert then moved to approve the resignations of Ron Brooks and Stephen Insalaco, taking the committee to 7 members and suspending the appointment of Debra Crafts until another application is submitted. Seconded by Vice Mayor McGoffin. Councilmember Wangsness asked if the motion needed to include leaving the City Code as it stands with Councilmember Lambert stating his motion didn't need to include anything regarding the Code since nothing in the Code was changing. Motion then passed 7-0.

5. **Discussion and possible action on suspending Mayor and Council salaries until employee furloughs are curtailed and City offices/functions are restored to normal working days and hours**

Councilmember Wangsness stated he agrees with the spirit of the idea, but he thinks this should be a personal choice for Councilmembers instead of the Council trying to impose it on every Councilmember. Councilmember Konrad stated he put this on the agenda, adding it basically goes back to the campaign and some of the things that were brought to his attention at that time, adding one of the concerns was that the Council had furloughed people, but had not considered making any kind of a cut at the Council level. Councilmember Konrad then stated he put this item on the agenda to stimulate the discussion and as soon as it was publicized, he started getting public comments asking him to withdraw it due to the hours Councilmembers spend on City business, researching and interacting, adding the pay they receive is comparable to minimum wage. Councilmember Konrad then stated the Council needs to do something, adding they can't continue to run the City with employees furloughed because it's bad business to have the City offices closed on Fridays. Councilmember Konrad then stated his old bosses once said, when business is down, the worst thing you can do is let the store front deteriorate, adding he thinks that is what is being done by closing City offices on Friday and he would like to see the Council agree to work diligently to get these furloughs behind them and get the hours restored to where they need to be. Councilmember Konrad stated he understands the budget concerns and that is not on this agenda item, but it is something to keep in mind as the Council moves forward with the budget, adding he is willing to drop it if the Councilmembers are all willing to step up and take responsibility and move in a direction to get the situation reversed and get employees back to work.

Mayor King then stated he doesn't like City offices being closed on Fridays, adding he had a couple students from NAU come down and interview him at the park because the offices were closed. Mayor King then stated he understands the situation but he can't plan anything on Fridays, adding it's a heavy

burden to have City offices closed on Fridays. Mayor King then stated the Council has some tough decisions to make and the Council needs to be bold in making those decisions.

Vice Mayor McGoffin stated the Council has a lot of work coming up.

Councilmember Konrad then stated that was one of the concerns expressed to him and whether Councilmembers would have the level of interest they need if they aren't compensated for what they are doing, adding he has to agree with that, but again, the Council needs to get off that center and do something to get this corrected. Councilmember Konrad then stated this is all going to work into the budget sessions, but the Council needs to come forward with some creative ideas and see what they can do. Councilmember Konrad then stated the other thing that plays into this is damage repair, stating there are morale problems and people have left who thought they would be lifetime employees. Councilmember Konrad then stated of course, no one fully owes an employee a job and it's a 2-way street, but the problem is that some loyal employees left because of these furloughs, adding the City is feeling the effects from it and he has a strong feeling that it's time to get it over with and put it behind them.

Councilmember Wangsness stated it may be possible for employees to take turns furloughing on Mondays and Fridays so the offices can stay open with half the employees. Councilmember Wangsness then stated as far as the Council's compensation, he wasn't sure if the Council could take any action, adding the only thing he found in the City Code regarding compensation was in Chapter 2, Section 2-1-5, and says a Councilmember would not be paid if they missed 2 or more consecutive meetings. Councilmember Wangsness then stated he thinks Council compensation is like a contract between each individual Councilmember and the voters who put them in office.

Mayor King stated in the past, he gave up half his pay, receiving only \$100.00 per month, and then stated he spent time and money on fuel, internet for communication purposes and things like that. Mayor King then stated not being paid is something he is willing to do if he has to, but stated the question to ask was if it would affect the Council continuing to work and push as hard as they do when they do not get paid. Mayor King then stated he knew he stayed on top of things, but there were some days that you scratch your head and wonder about the cost on Councilmembers too. Mayor King then stated he appreciated this being brought up and if it's something the Council has to do, they have to do it, but he'd like to see it as something the Council can prevent rather than something they choose.

Councilmember Boyle stated Councilmember Konrad had the right idea but felt the Councilmembers should do this on an individual basis, adding if they can afford it, fine and if not, that was fine too and it should be a private thing between each Councilmember and the City.

Councilmember Cook stated he received an email from Councilmember Wangsness that requests Councilmember Wangsness not be paid starting in April, adding Councilmember Wangsness asked to be placed on furloughs as long as the employee furloughs last. Councilmember Cook then stated his own situation is that his income is under \$875.00 per month, adding the \$46.00 per week the Council compensation amounts to, helps him. Councilmember Cook then stated what Councilmember Wangsness is doing regarding the compensation is fabulous and if this is something he or any other Councilmember wants to do voluntarily, it would be great, but to make it mandatory would not.

Councilmember Wangsness thanked Councilmember Cook, but stated his intention was for his request not to be made public.

Councilmember Lambert stated everyone had touched on everything he was going to say.

Mayor King asked if there was any further discussion with Councilmember Cook stating the item would die if no one makes a motion. City Attorney Gary Cohen stated the Council could also table the item. Councilmember Konrad then moved to table this item. Seconded by Councilmember Boyle. Motion passed 7-0.

**EXECUTIVE SESSION:** Pursuant to A.R.S. §38-431.03 (A)(1),(3) and/or (4), discussion or consultation for legal advice with the attorney or attorneys of the public body, and possible instruction to the attorney or attorneys of the public body, about enforcing law(s) involving residency and/or principle place of abode requirements for councilmembers, and/or creating rules requiring Councilmembers' physical presence at Council meetings.

Vice Mayor McGoffin moved to enter into an executive session with Mayor and Council, the City Manager, the City Attorney and the Deputy City Clerk at 8:10 p.m. Seconded by Councilmember Boyle. Motion passed 7-0.

Council reconvened at 9:17 p.m.

6. **Discussion and possible direction to Staff about enforcing law(s) involving residency and/or principle place of abode requirements for Councilmembers' and/or drafting rules, and/or Code revision defining Councilmembers' requirements involving residency, principle place of abode and/or physical presence at Council meetings**

Mayor King stated before he allowed any discussion, he wanted to ask City Attorney Gary Cohen to jump in anytime he may see the Council start to violate any laws.

Councilmember Wangsness stated the Council was making a big mistake.

Vice Mayor McGoffin stated she thinks the Council needs to put this item on the next Council agenda, to discuss City and State laws regarding a Councilmember's presence at meetings. Vice Mayor McGoffin then stated she thinks the City Code and State Statutes are pretty clear in deciding whether the seat should be vacant, adding if the Code needs to be fine-tuned a bit, she would leave that up to the Council, again stating, she thinks it should be on the next agenda.

Councilmember Cook stated he agreed with that completely and thinks other good suggestions have been to quantify how many absences or telephonic attendances could be allowed sequentially and also, how many could be allowed accumulatively and asked City Attorney Gary Cohen to draft language regarding that, but leaving the numbers blank to be determined by the Council.

Councilmember Lambert stated he thought the issue was pretty clear in the City Code and in A.R.S. §9-232 and also §38-291(6), that the position should be vacated, adding he thinks the Council should put it on the next agenda with the option to possibly vacate the seat.

Councilmember Konrad stated he would like to consider the laws, adding he doesn't have the specific section with him, but in the City Code, it says the Council can grant a 50-day extension to Councilmember Wangsness. Councilmember Konrad then stated he believed it would be in the best interest of the Council to proceed with that as an option as well, adding that would allow there to be no upheaval on the Council right now, adding he would like for that language to be included somehow.

Councilmember Wangsness stated he would like to say that he does not consider himself to be vacant from the office, adding he has a very high attendance rating, noting he may not be here physically all the time, but he is definitely here in spirit. Councilmember Wangsness then stated he disagrees with the definition or the interpretation. Mr. Cohen stated the Council couldn't discuss any interpretation because it was the subject of the executive session, then stated at this point, there has been no action taken to vacate anything, adding direction to Staff is the only thing on the agenda. Councilmember Wangsness asked if he could read part of the City Code for people to decide for themselves with Mr. Cohen stating he could. Councilmember Wangsness then read from the City Code, Chapter 2, Section 2-1-4(B), stating it clearly says, "City residence for the purposes of qualification to serve on the City Council consists of maintaining by the Councilmember, a principle place of abode for the Councilmember and the Councilmember's family, within the City" which he maintains is what he is doing. Councilmember Wangsness then stated the IRS definition of a principle place of abode in their tax code, is where "the individual lives unless temporarily absent due to special circumstances. Temporary absence from the household due to special

circumstances, such as illness, education, business, vacation or military service will not change an individual's principle place of abode." Councilmember Wangsness then stated he maintains that if he had been in the National Guard and was called up for a year, the same thing would still apply, adding he has been attending Council meetings the whole time, unlike certain other Councilmembers.

Mayor King then asked if there was any further discussion. Councilmember Lambert stated when Councilmember Wangsness was reading from the City Code, he left off at a very important part, then read from the Code stating "in the event that a Councilmember removes their principle place of abode to a location outside the City limits for a period of more than 50 consecutive days, the Council seat to which such Councilmember was elected, shall be deemed vacated by operation of law." Councilmember Wangsness then stated he was maintaining that he had not removed his principle place of abode based on the definition by the IRS. Councilmember Cook added or HUD or Food Stamps. Councilmember Wangsness stated the Council discussion was not about HUD or Food Stamps, but was about removing an elected official. Councilmember Cook stated that was why the Council was looking at the City Code, adding the City Code applies to elected officials of the City. Councilmember Konrad stated for reference, the section of the Code he was referring to earlier was the section that contained the provision for the 50-day extension. Mayor King thanked Councilmember Konrad for bringing that up.

Mayor King then stated Staff had been directed with City Attorney Gary Cohen stating he believed he heard the direction to Staff to be to place on the agenda the issue of possible action to declare Councilmember Wangsness' seat vacant and also to prepare a draft document with provisions regarding the physical presence of Councilmembers and having some limitations both on a accumulative basis and on a consecutive basis as to the number of meetings where one cannot be physically present. Mr. Cohen then stated if someone could make that a motion and it was seconded and passed, Staff would have that direction. Vice Mayor McGoffin stated she would make such motion. Councilmember Konrad asked what exactly the motion was with Vice Mayor McGoffin stating the motion was to put on the agenda the possibility of vacating the Council seat and all those things that were going to be worked into the City Code. Councilmember Konrad confirmed that the timeframes would be determined by the Council with Vice Mayor McGoffin confirming the Council would decide those at the Council meeting. Councilmember Konrad then seconded the motion. Motion then passed 6-1 with Councilmember Wangsness voting nay.

**DEPARTMENT REPORTS:** None

**ADJOURNMENT:**

Vice Mayor McGoffin moved to adjourn at 9:25 p.m. Seconded by Councilmember Boyle. Motion passed 7-0.

---

Toney D. King, Sr., Mayor

ATTEST:

---

Vicki L. Vivian, CMC, City Clerk