

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD APRIL 28, 2014, 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 the Allegiance. Mayor King introduced Pastor A.B. Blair of the First Baptist Church who offered the invocation.

**ROLL CALL:**

Present were: Mayor Toney D. King, Sr., Vice Mayor Al Sacco, Councilmembers Pat Boyle, Ron Brooks, Jeff Cook, Chris Moncada and Peter Wangsness (via phone).

**EMPLOYEE RECOGNITION:** None

**PROCLAMATION:**

Mayor King asked Councilmember Boyle to read a proclamation of the Mayor and Council declaring the month of May, 2014 as "Building Safety Month." Councilmember Boyle then presented the proclamation to City Building Official/Zoning Administrator Luis Garcia.

Mayor King then asked Vice Mayor Sacco to read a proclamation of the Mayor and Council declaring May 9, 2014 as "Benson Poppy Day." Vice Mayor Sacco then presented the proclamation to Marilyn Wilharm and Audrey Palma of the American Legion Auxiliary, Unit 45. Vice Mayor Sacco thanked Ms. Wilharm and Ms. Palma for their service.

**PUBLIC HEARING:** None

**CALL TO THE PUBLIC:**

Bruce Staggs addressed Council regarding his candidacy for the Justice of the Peace JP3 election. Mr. Staggs introduced himself, stating he has now submitted the signatures and will be on the ballot for the August election. Mr. Staggs then stated if the voters should decide to elect him, he looks forward to serving Cochise County as Justice of Peace and also serving the City of Benson as their magistrate. Mr. Staggs then introduced his campaign manager Lori Arnold, adding she brings great professionalism, leadership, work ethic and political savvy to his campaign. Mr. Staggs stated he loves this community, which is his home and he is deeply concerned about the challenges facing it, adding this great country is being eroded at an alarming rate, and is departing from the morals and values and work ethic that made it great. Mr. Staggs stated that fortunately, these challenges affecting a majority of the nation haven't happened in the JP3 area to the degree that they have impacted the rest of the nation and he just wants to fulfill his moral and ethical responsibility to make sure it doesn't happen to this community. Mr. Staggs stated he ran 4 years ago and after knocking on over 2,500 doors, learned most people are concerned about drug and alcohol abuse, DUIs and domestic violence and today, he is knocking on doors again and finding the same concerns exist. Mr. Staggs then stated if he is elected as Justice of the Peace, he commits to do his best to continue to address these problems just as Judge Knoblock is doing. Mr. Staggs then stated other commitments to the community include being fair, firm, impartial, building community trust through judicious graduated discipline, equal justice for all, to be unbiased, and to listen to all testimony prior to adjudication. Mr. Staggs stated he also commits to uphold all citizens' constitutional and civil rights, to make sure all people who come before the court are treated with dignity and respect, to enforce the founding principles of the leaders of our nation when they started out, to enforce the rule of law and not legislate the bench, adding by doing so, law enforcement officers will know all the hard work they are doing and putting their lives on the line won't be in vain. Mr. Staggs stated he also commits to promote responsibility and accountability in our community, thus creating a safe environment for

all of us and finally, to tirelessly serve with honor and respect. Mr. Staggs stated those are his commitments to not only citizens, but also to the Benson City Council, adding he knows he can't prove his honor and integrity, so he has gone out and gotten endorsements from many respected businessmen in town and invited those present to go to his website to see those. Mr. Staggs then thanked the Council for allowing him to introduce himself and share his platform in running for the Justice of the Peace.

J.T. Moffett addressed Council stating he wanted to remind them about the public forum tomorrow night, adding it was originally scheduled for April 24, but it was brought to his attention that was the same night as the annual SSVEC meeting and since he didn't want to conflict with that, he moved the forum to April 29 at 7:00 p.m. in the Council chambers. Mr. Moffett then stated the forum would be about defining economic development as it pertains to the needs in this community and will include discussing the Police Department, the Fire Department, the Airport, the Golf Course, Benson Area Transit, youth programs, senior programs and much more. Mr. Moffett stated he wanted to stress that there would be no politics and no personal attacks at the forum, either from the platform or from the audience, adding the forum is all about critical issues that deal with the community. Mr. Moffett then stated he wanted to personally invite all 7 of the Councilmembers to be there, adding City Manager William Stephens will be there and hopefully the Chamber of Commerce, SAEDG and some realtors in town will come because these are some critical issues that are facing the community. Mr. Moffett then stated the forum will also address the budget and expenditures, which is a big issue with this coming budget in June, and again, invited the Council to attend.

Steven Insalaco addressed the Council regarding formation and rules of the Benson Economic Development Committee and the Benson Airport Advisory Committee. Mr. Insalaco's comments will be retained with the Council packet.

Vicki Vivian addressed Council regarding the upcoming recall election and the upcoming 2014 City Election, stating the recall election will be held on May 20, 2014 and the Primary Election is scheduled for August 26, 2014 with the General Election to be held on November 4, 2014. Ms. Vivian stated the elections will be held to elect the Mayor and 4 Councilmembers, adding the Mayoral seat is open for candidates wishing to run for Mayor, which is a 2-year term; three Council seats are open for candidates wishing to serve a 4-year term on Council and one Council seat is open for candidates wishing to serve a 2-year term on Council. Ms. Vivian then stated that City residents wishing to participate in the election process must be registered to vote, noting the deadline for voter registration for the recall election was April 21, 2014, the deadline for voter registration for the 2014 Primary Election is July 28, 2014 and for the 2014 General Election, the deadline is October 6, 2014. Ms. Vivian then stated the General Election, if held, will be held to fill any Council positions that may not be seated at the Primary Election.

Leo O'Farrell addressed Council stating he was representing the Benson Clean & Beautiful Committee. Mr. O'Farrell stated the committee was founded in 2003 and shortly thereafter came under the umbrella of the City of Benson, but this arrangement no longer exists. Mr. O'Farrell then stated the committee operates as a separate entity, as a non-profit, and receives support from the City on an occasional basis. Mr. O'Farrell stated in 2013 with Lisa Hill at the helm and Doug Quarles as their resident muralist in place, murals started once again to make their appearance in Benson, adding with the financial help of the City of Benson, local corporations, local businesses and residents, they have produced murals in town that can be seen at the Visitor's Center in the parking area, on the north wall of the Horseshoe Café and some individual murals at Pioneer Title. Mr. O'Farrell then stated he was happy to say this is just the beginning because more murals are on the way, adding both citizens and tourists alike appreciate the art and love the new murals. Mr. O'Farrell then stated the committee is just a few individuals, but they have still achieved a lot in a short period of time. Mr. O'Farrell then stated in order to bring new beauty, a sense of increased pride and the relevance of history to the City, they need the City Council's help to continue this positive beautification process. Mr. O'Farrell then stated many cities around the country have mural programs in place and have shown that tourists do come to see beautiful inspiring murals. Mr. O'Farrell then stated tourism brings people, people will bring businesses and services which will bring jobs; jobs need people who need houses which need construction and construction means jobs, noting all of this means taxes and increased revenue for the City, which also means a brighter future for our residents, our families and their children. Mr. O'Farrell then stated the committee needs

the City Council's support and help and they want the Council to pledge to support their efforts, with real, tangible, honest to goodness support of their pleas for financial help and then asked Council to consider voting in favor of their efforts of beautification. Mr. O'Farrell then stated the committee also needs help in awakening citizens to their need for volunteers to keep this and other beautification programs going. Mr. O'Farrell then stated the committee's office was located in the Southeastern Arizona Economic Development Group's building on 4th Street and announced their phone number is 520-586-2515 for anyone wishing to contact them.

Mayor King then introduced new City Manager William Stephens to those in attendance.

### **CITY MANAGER REPORT:**

City Manager William Stephens addressed Council, giving the dates of upcoming meetings and events.

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| Tuesday, May 6, 2014   | - Planning & Zoning Meeting, 7:00 p.m., City Hall  |
| Monday, May 12, 2014   | - City Council Worksession, 6:00 p.m., City Hall<br>City Council Meeting, 7:00 p.m., City Hall |
| Tuesday, May 13, 2014  | - Library Advisory Board, 4:00 p.m., City Library  |
| Saturday, May 17, 2014 | - Historic Preservation Commission, 9:00 a.m., City Hall                                       |
| Tuesday, May 27, 2014  | - Community Watershed Alliance, 6:30 p.m., City Hall   |
| Friday, May 16, 2014   | - Movie in the Park – "Frozen" will be playing at Lion's Park, 7:00 p.m.                       |
| Thursday, May 22, 2014 | - Benson Middle School Graduation, 6:30 p.m., Benson High School<br>Football Field             |
| Friday, May 23, 2014   | - Benson Union High School Graduation, 7:30 p.m., Benson High School<br>Football Field         |
| Friday, May 23, 2014   | - Benson City Pool opens at 11:00 a.m.   |
| Monday, May 26, 2014   | - Memorial Day – City Offices Closed   |

### **NEW BUSINESS:**

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

- 1a. Minutes of the April 14, 2014 Worksession
- 1b. Minutes of the April 14, 2014 Regular Meeting
- 1c. Invoices processed for the period from April 3, 2014 through April 16, 2014

Councilmember Brooks moved to approve the remaining Consent Agenda. Seconded by Vice Mayor Sacco. Motion passed 7-0.

#### **2. Discussion and possible action on Resolution 6-2014 of the Mayor and Council of the City of Benson, Arizona, designating the election date and purpose of the election, designating the deadline for voter registration and designating the place and the last date for candidates to file nomination papers**

City Clerk Vicki Vivian addressed Council stating Resolution 6-2014 declares the upcoming election, the purpose, gives voter registration deadlines and designates the place of the election. The important dates to note for the election were May 28, when the Candidate forms were due to the City Clerk's office by 5:00 p.m., the Primary election date of August 26 and the General election date of November 4, as well as voter registration deadlines and deadlines for write-in candidates. The resolution and several display ads will be in the local newspaper informing the public and encouraging voter participation. Ms. Vivian then stated a Potential Candidate Forum was held on April 10 with approximately 13 people in attendance. The forum briefly covered the services the City offers and the election process. Councilmember Moncada moved to approve Resolution 6-2014. Seconded by Councilmember Brooks. Motion passed 7-0.

3. **Discussion and possible action on Resolution 7-2014 of the Mayor and Council of the City of Benson, Arizona, committing local funds as leverage for a FY2014 Community Development Block Grant Application**

Public Works Director Brad Hamilton addressed Council stating this resolution gives the City the ability to spend funds, if needed, but he doesn't anticipate spending any City funds on the upcoming Community Development Grant Block (CDBG) project. Councilmember Moncada asked when the project would start with Mr. Hamilton stating it would be after the funding was approved in the new fiscal year in October, adding it would also depend on how long it took to clear the requirements and get bids in. Councilmember Boyle asked if the project was to construct sidewalks with Mr. Hamilton stating the project Council approved was to replace a bathroom at Lion's park and to construct sidewalks and ADA ramps with the remaining funds. Councilmember Brooks asked if the City funding was a requirement to receive the grant to match with Mr. Hamilton stating it was not, adding when the project similar to this was done last year, the City also committed funding if needed. Mr. Hamilton then stated the City funding would enable the City to use the entire grant instead of having to give money back if the grant money couldn't cover the entire project. Mr. Hamilton then stated this resolution would keep options open for the Council. Councilmember Brooks then stated the bathroom seemed like something the Council would want to do, but he didn't think the sidewalks were critical and wasn't sure he wanted to commit City funding to construct them. Mr. Hamilton then stated he sees the bathroom coming in under the grant amount and then using the rest of the grant money to complete sidewalks, adding since the City is installing the ADA bathroom, we are required to make it ADA accessible. Mr. Hamilton then stated again, he doesn't project having to use any City funding, adding the sidewalks will be constructed according to the remaining funds after the bathroom is completed, but he didn't want to take away any opportunity. Councilmember Moncada noted the sidewalks will be ADA compliant to get to the ADA bathroom with Mr. Hamilton stating that was correct and if there was any funding left, it would be used to continue doing ADA compliant sidewalks and curb cuts. Councilmember Brooks asked about sidewalks being put on some of the side streets like Patagonia, adding they are not required, but would just be nice to have. Mr. Hamilton then stated the City had already committed this grant to being at the park and it can't be split, so all the funding will be used at the park, however, the City has constructed curb cuts and handicap ramps in north Benson in past years and has discussed with the State as part of the CDBG projects, to go back and put in sidewalks, adding a lot of handicap ramps don't have sidewalks to them.

Councilmember Moncada moved to approve Resolution 7-2014. Seconded by Councilmember Brooks. Motion passed 7-0.

4. **Discussion and possible action on Resolution 8-2014 of the Mayor and Council of the City of Benson, Arizona, adopting a Residential Antidisplacement and Relocation Assistance Plan for FY2014; as required under Section 104(D) of the Housing and Community Development Act of 1974, as amended**

Public Works Director Brad Hamilton addressed Council stating this resolution is required every 5 years to receive Community Development Block Grant funding. Councilmember Brooks asked if this resolution required any monetary commitment with Mr. Hamilton stating if the City used federal funding to knock out houses, we are required to abide by their rules for displacing people, adding there are no plans to do so, but the resolution is still required every 5 years. Councilmember Brooks moved to approve Resolution 8-2014. Seconded by Vice Mayor Sacco. Motion passed 7-0.

5. **Discussion and possible action regarding the reimbursement request from the San Pedro River Arts Council**

City Manager William Stephens addressed Council stating in the Council packets, there are two letters, adding the first letter is requesting \$1,500 funding in the upcoming budget cycle, which will be discussed in the budget worksessions. Mr. Stephens then stated the second letter is a request to be reimbursed \$1036.61 for an event held by the Arts Council and is being brought to the Council for consideration and discussion. Mr. Stephens then stated in addition, with regard to this subject, the Council received a memo from City Attorney Gary Cohen for their review. Councilmember Moncada asked if Mr. Cohen wanted the Council to enter into

an executive session with Mr. Cohen stating it was up to the Council. Councilmember Brooks stated he knew the memo had to do with the gift clause, adding he would like to get the City Attorney's opinion publicly. Mr. Cohen then stated there is an Arizona constitutional provision that has been in existence for a long time, but has not been the subject of much discussion until 2010 with the recent Arizona Supreme Court decision, adding this provision is called the gift clause and essentially what it does is preclude governments, whether county, municipality or the state, from making donations of taxpayer money to private entities. Mr. Cohen then stated in his short tenure here, it has come up a few times and seems part of the culture, but as the lawyer, he has to advise on the law, adding this constitutional provision is an issue with regards to requests to reimburse or give money to private institutions, which is what the Arts Council is. Mr. Cohen then stated this is the concern from the legal perspective. Councilmember Brooks stated there is some litigation going on in Tucson right now about this very thing, adding he just wanted to make some of the people and organizations out there aware that the Council is going to have to look at this a little more carefully every time now because the way he understands it is that the City has to profit from the funding and if it doesn't, it would be considered a gift. Mr. Cohen then stated this subject has been the subject of litigation, adding the main case was in 2010 and involved the City of Scottsdale basically making a donation with regards to a private parking garage at a development in Phoenix. Mr. Cohen then stated the Goldwater Institute, which is a political organization, challenged that and put this issue in the public light and now the City of Tucson has been sued recently for having an ordinance in their procurement code that gives a preference for priority consideration when procuring to local businesses, adding as the City Attorney, he is watching that carefully because he knows that is a subject of interest here. Mr. Cohen then stated his advice is to wait until that litigation is over, adding it is not with any pleasure that his recommendation is made, but is in trying to follow the laws, adding he is required to do so and to advise the Council such.

Councilmember Brooks moved to consider this in the general budget under the circumstances of the situation Mr. Cohen explained, adding he believes this is a benefit to the City, but couldn't say for sure. Councilmember Moncada stated the Arts Council was asking for the \$1,000 reimbursement now, but was also asking for \$1,500 funding to be included in the next budget. Councilmember Brooks then asked if funding for the Arts Council was included in the current budget with Councilmember Moncada stating it was, however, he wouldn't say Council pre-approved this specific request. Councilmember Moncada then stated he has spoken to Mr. Cohen about this subject many times, adding he thinks the difference is the request must both serve a public purpose and the benefit the City is receiving back from the private entity must be proportional to the donation. Councilmember Moncada then stated he thought this does serve a public purpose, adding there is a benefit to the City in encouraging people to be involved in the Arts Community. Councilmember Brooks agreed, stating this is definitely something he would like to see more of in the City, adding he thought the Council could justify bringing in people for that exhibit with a sales increase in the town. Councilmember Moncada stated the Arts Council letter says the event has increased every single year from 30 entries in 2012, 93 entries in 2013 and 114 entries in 2014, which is promoting arts in Benson. Councilmember Moncada then stated he thought the Council should have more of a discussion with the Arts Council next year on exactly how the City Council expects that money to be used. Councilmember Brooks then moved to approve agenda item #5 for the expenditure of a reimbursement in the amount of \$1,036.61 for the Arts Council. Seconded by Councilmember Moncada.

Councilmember Wangsness asked Mr. Cohen if the request for a reimbursement would have been less problematic if the Arts Council sponsored something like a Benson Arts Festival or something along the lines of the Cowboy Music & Poetry event the Council approved funding for with Mr. Cohen stating he understood Councilmember Wangsness' question to be whether or not it's a greater concern to reimburse something that has already happened in the past as opposed to an event that is happening in the future, where the Council can possibly determine the economic benefit moving forward. Councilmember Wangsness stated he was thinking of the Cowboy Music & Poetry Festival, which was a citywide event. Mr. Cohen stated he looks at requests on an individual basis as the lawyer, adding it is different when he is analyzing a public event, that if challenged and had to be defended, could show the measurement of the number of people that are drawn to the community that would spend money here and may spend the night for an event like Councilmember Wangsness mentioned as compared to an event which is a private art showing, which has already happened and the measurable consideration back to the City, from a legal perspective, is not something he is aware of.

Mr. Cohen then stated his concern is in avoiding problems, adding he simply advises the Council and then Council makes the decisions.

Councilmember Wangsness then stated it might be better off in the future to sponsor some type of citywide festival or something like that with Mr. Cohen agreeing. Mr. Cohen then stated there was a call to the public earlier about the Benson Clean & Beautiful Committee and an effort in the statement to demonstrate a measurable consideration or a measurable return to the City, which is very helpful to the attorney, adding if he were asked to defend the action, he could actually have some evidence as opposed to theory.

Mayor King stated there was a motion and second on the floor with Mr. Cohen stating his colleague made mention of the fact that there may be 2 motions on the floor. Councilmember Brooks stated his first motion was to take the request out of the general budget period and stated he would like to withdraw that motion. After verifying there was a single motion pending, Mayor King called for a vote. During the vote, Councilmember Cook stated there is a strong apparent difference between the Cowboy Music & Poetry Festival which brought people in from all over Cochise County and even Tucson and an art display for whoever walks into Cochise College. Councilmember Cook then stated he was in favor of that art display at Cochise College and all the efforts that were made to make it happen, but he was also very reluctant to violate the State constitution when there is a very intangible benefit back to the City, so unfortunately, in spite of being in favor of the event, he was going to vote against it. Councilmember Wangsness stated he would like to remind the Arts Council to consider Mr. Cohen's comments in the future. Motion then passed 4-3 with Mayor King and Councilmembers Boyle and Cook voting nay.

6. **Discussion and possible action on the removal of the citywide hiring freeze**

City Manager William Stephens addressed Council stating at the December 23 Council meeting, as a result of waiting to hire a full-time City Manager and also with respect to the economic times and budget, the Council approved a soft-hiring freeze and took control at that time of the hiring process pending the arrival of a new full-time City Manager. Mr. Stephens then stated he had been here 30 days as of today and he was simply bringing that issue back to Council to remind them that they were looking at returning the hiring authority back to the City Manager upon his arrival and full-time schedule and it was before Council for their consideration. Vice Mayor Sacco asked Mr. Stephens what he considered a soft-hiring freeze with Mr. Stephens stating usually a hiring freeze is a hiring freeze, giving consideration to critical positions vs. non-critical positions, adding he would say in this case, the soft-hiring freeze Council agreed to would most likely address non-critical positions, in other words, there would be a delay in hiring those positions that would not necessarily be needed at this time, until the budget improved, but those positions that are critical would be hired due to the critical nature of those particular jobs.

Vice Mayor Sacco then asked what open positions needed to be filled at this time with Mr. Stephens stating those positions include the Director of Golf, the Deputy City Clerk, a cook position at the Golf Course and the next new business item; a Library Assistant, however, if Council returns the hiring authority back to the City Manager, that new business item becomes moot for tonight's meeting. Councilmember Boyle stated he thought Mr. Stephens understood the reason the Council took the hiring responsibility and that the City still had financial problems and asked Mr. Stephens if he would follow the Council's intent and take that into consideration as he looked at hiring decisions with Mr. Stephens stating he would. Councilmember Brooks stated he agreed with Councilmember Boyle's position, adding he thought hiring decisions belong with the City Manager, but the Council took the authority because of the financial situation. Councilmember Brooks then stated the Council would probably be discussing what else could be done, adding he would also like to say that he wouldn't want to hire someone and then have to let them go. Councilmember Brooks then stated he thought Mr. Stephens had the general understanding what needs to be done and if Mr. Stephens had any questions on anything, he could consult with any of the Councilmembers.

Councilmember Brooks then moved to approve giving the hiring authority back to the City Manager. Seconded by Councilmember Boyle.

Councilmember Cook stated he was also in favor of returning the authority back to the City Manager, adding with the Mayor & Council/City Manager form of government, hiring should have always been the City Manager's responsibility and not been in the Council's hands. Councilmember Cook then stated the Council is more than likely not fit to make all of those hiring and firing decisions and they never should have wasted time as a Council deciding whether or not to hire or fire a seasonal part-time dishwasher or a cook, adding he was opposed to taking that authority from the City Manager in the first place, which is why he voted against it. Councilmember Cook then stated the City Manager having that authority keeps politics out of the picture and as a City Manager and Department Heads, they have a much greater skill and experience in making those decisions, adding he was totally in favor of returning that authority to the City Manager. Councilmember Wangness stated he was also in favor of lifting the freeze, primarily because if nothing else, the response times of Council is much longer and less flexible than in giving it back to the City Manager, adding if the Council can't trust the City Manager, he shouldn't be here. Councilmember Brooks then stated he wanted to let the public know the reason the Council approved this hiring freeze was because of the large debt the City has each year and being in a recession time, he believed the citizens expected the Council to do something, adding he thinks it was prudent for the Council to do, at least until they had a real City Manager here who was familiar with how to organize and get the most for the City's money. Councilmember Brooks then stated it was a smart move for Council; it didn't involve too much and he is glad to see it back out of their hands. Vice Mayor Sacco agreed this should be part of the City Manager's responsibility. Motion then passed 7-0.

7. **Discussion and possible action on a request to fill the Full-Time Library Assistant position at the Benson City Library**

Councilmember Moncada moved to remove this item from the agenda. Seconded by Councilmember Boyle. Motion passed 7-0.

8. **Review and discussion of City Finances with emphasis on March, 2014 financial results, and the City's financial position at March 31, 2014**

Finance Director Megan Moreno addressed Council reviewing financial highlights for the month of March. Ms. Moreno stated this is the third month in a row the City had a positive fund balance, adding this is a good time of year. Ms. Moreno then stated on the revenue side, the City saw an increase in local sales tax and on the expense side, we are continuing to see a decrease in operating and capital expenses, adding this strong showing for the past 3 months is going to help as we move into May and June when large payments are due and as the City heads back into our slower months. Ms. Moreno then stated she did want to stress that the City will most assuredly end this fiscal year in a deficit, even though she has come to the Council with good news for the last 3 months, noting even though the City will still end in the red, it is an improvement over the prior fiscal year, with the City's revenues being up slightly and the continued monitoring of expenses. Ms. Moreno then stated March was also very mild weather wise which means less revenue for the Gas Fund, adding the Gas Fund will most likely finish the year in a deficit as well since the moneymaking months are during the winter and we haven't had the revenue we have seen in the past. Ms. Moreno then stated the Golf Course again made a profit for the month of March, adding the restaurant also posted a profit for the month, but noted the Golf Course was budgeted to end this year in a deficit and will most likely have a deficit of approximately \$200,000.

Ms. Moreno then stated the City's unrestricted cash balance improved over the past 3 months and now sits at \$1.2 million, but noted the City has some large payments coming up in May and June. Ms. Moreno then stated bond proceeds are still at \$1.12 million, adding the City has not processed a bond draw this year. Councilmember Brooks asked what the large payments were with Ms. Moreno stating the City has a development agreement payment with Wal-Mart and the annual bond payment. Councilmember Brooks asked if the City was almost done with the payment to Wal-Mart with Ms. Moreno stating there were 4 or 5 payments remaining. Ms. Moreno then stated bond proceeds are money used for capital projects and the City has only done 2 this year, noting the reason the proceeds amount remains the same is that the City hasn't processed a draw yet this year to reimburse the City for those funds. Ms. Moreno then stated revenues did exceed expenditures by \$4,000 for the month of March, noting citywide, we were still at a negative \$228,000

for this fiscal year, but where we were at this same time last year, was a negative \$397,000, so the City was doing better than last year. Ms. Moreno then stated overall citywide, revenues are down from the prior year, noting this is due to less grant revenue and less bond proceeds and has nothing to do with general operating revenues.

Ms. Moreno then addressed personnel citywide, stating the cost was \$3.7 million year-to-date, which is an increase of \$117,000 over last year. Ms. Moreno then stated capital expenditures were the waterline on Hillcrest and a new project the City has started, adding we are required to put filters on water wells, which is showing to be a major expense.

Ms. Moreno then addressed the General Fund, stating revenues were \$400,000 for the month of March and is up \$179,000 year-to-date. Ms. Moreno then stated the City's transaction privilege tax is \$92,000 of that, noting the City is seeing a good jump in local sales tax, which is the City's main source of revenue. Ms. Moreno then stated in the General Fund monthly expenditures for personnel were \$2.4 million and other expenses are down from the prior year at \$69,000. Ms. Moreno then stated the fund balance for the General Fund is at a negative \$309,000 for this fiscal year, but is an improvement over last year at this time when it was down \$441,000.

Ms. Moreno then addressed Enterprise Funds, stating the Gas Fund is still at a positive fund balance right now at \$16,000; however it usually does not make money during the coming months, so it will most likely end in a negative fund balance. Ms. Moreno then stated the Water Fund is operating well and the Wastewater and Sanitation Funds are operating in the positive right now, adding she did want to stress that is on an operating level and does not include capital projects that may be necessary for the operations of those utilities, which tend to show up in the Capital projects fund. Ms. Moreno then stated the Golf Course was a positive \$9,000 for the month of March, but was down \$70,000 year-to-date and the Food and Beverage side made \$2,000 for the month of March, but was still down \$36,000 year-to-date.

Ms. Moreno then addressed sales tax stating the City is following right along the trend and is right in line with where we have been for the past 2 years. Ms. Moreno then stated the City saw an increase in Bed Tax, which was approximately \$10,000 for the month of March and noted Construction sales tax was also just slightly under \$10,000 for the month of March. Ms. Moreno then stated the State retail sales tax collection is following the trend very nicely.

Councilmember Brooks stated he would like to commend City departments for working to reduce the overall costs, adding he is hoping the reductions aren't in places that are going to hurt the City later. Councilmember Brooks then stated according to the Visitor Center report, the number of visitors is the highest it has been in 3 years so things are sort of looking promising, adding we can be hopeful for this next year.

Councilmember Boyle asked Ms. Moreno if she projected the overall deficit for the year with Ms. Moreno stating she had not, but could include that projection in her next presentation. Councilmember Wangsness asked if the City was due for a utility rate survey with Ms. Moreno stating we need to look at adjusting utility rates. Councilmember Wangsness stated he would like to know how the City compares economically with other utility companies as far as our expenses being higher or lower than the average and that type of information with Ms. Moreno stating the City has not done a rate increase since 2006 on water, wastewater or sanitation, adding it needs to be looked at again since it has been 8 years and most of the utilities will end the year in the red. Ms. Moreno then stated in comparing the City to other utilities in the area, it is her understanding that the City's sanitation rate is less than the sanitation rate for county residents and that the City's water rates according to an EPA dashboard she and Public Works Director Brad Hamilton looked at, could be raised approximately 80% and still be in the average price for utilities in the state. Ms. Moreno then stated in the Gas utility, the City is about 60% of what Southwest Gas charges for their gas right now, adding the City's availability charge and price per unit are both less than others around us. Ms. Moreno then stated she is concerned about the wastewater treatment plant, which is getting to an age where things are starting to breakdown and more expenses will come through because of that, adding there are also water lines, sewer lines and gas lines that have to be maintained. Ms. Moreno then stated the City needs to be proactive in

managing those funds to make sure that money is put aside now to help with any major breaks or repairs that will need to be done in the future. Ms. Moreno then stated currently, the City is covering operating expenses, but is not necessarily putting money aside for an emergency plan or contingency plan and if something were to break in one of those utilities, we would have to resort to using bond money to make the repairs. Ms. Moreno stated this is something the Council needs to think about because when the bond money is gone, we need to be able to have money set aside for these major projects that are almost 100% likely to happen in the future.

Councilmember Wangsness stated everyone wants free utilities, but if they break, they don't do any good, and asked if there was some kind of survey the City should be doing before diving into the annual budget with Ms. Moreno stating we can have a rate survey done for our utilities, but there is a price tag that comes with that, adding she believes it is in the budget and if it is something the Council is interested in pursuing, we could look at having it done. Councilmember Wangsness stated he was thinking of either using an outside vendor or an in-house review or survey with Ms. Moreno stating an in-house study could be done for sanitation, but she wasn't sure one could be done for wastewater or water and would have to defer to Mr. Hamilton. Mr. Hamilton stated they could probably be done in-house, but he didn't think it could be done before the budget, adding there are too many things going on right now to be able to put them aside in order to get rate studies done. Mr. Hamilton stated the rate studies were budgeted in the past to use an outside source, but like a lot of things, if the funding wasn't available, projects were put on hold, adding it may be time to start looking at them.

Councilmember Cook stated back in the 70s, the Tucson Council approved a hefty rate increase and got recalled and swept out of office immediately, adding since then they have done a rate increase incrementally just about every year, for a small amount, but over almost 4 decades, it adds up to a lot. Councilmember Cook then stated private utility rate increases have to go before the Arizona Corporation Commission, and asked Mr. Hamilton if the City had to do the same with Mr. Hamilton stating the Council is the public body that manages the City's utility services and they do not have to go in front of the Arizona Corporation Commission; however, there are certain steps that must be taken before the Council can increase utility rates, such as rate studies and certain publishings. Ms. Moreno added the City also had to give a 60-day notice before any rate increases were to be approved, which must be published on the City's website. Councilmember Cook stated in the survey, it would be helpful for the average citizen to know what sort of repairs and replacements were being anticipated, adding that information would also be helpful to the Council. Mr. Hamilton stated that would be very hard to predict, noting before the recession started, the City was modeling and mapping the systems and taking an inventory of the conditions, especially in water, wastewater, adding the gas system is pretty good, but things were put on hold in 2008 and have never been completed due to the recession. Mr. Hamilton then stated without that, we don't have a complete picture of what capital improvements are going to be. Mayor King stated the Council needed to return to the financial presentation with Councilmember Cook stating the possibility of a rate increase for utilities was brought up in the presentation. City Attorney Gary Cohen agreed with Mayor King that the Council needed to return to the subject of the financial presentation. Ms. Moreno then stated if the Council had any additional questions later, they could contact her at City Hall.

**EXECUTIVE SESSION:** Pursuant to A.R.S. §38-431.03 (A)(3) & (4), for discussion or consultation for legal advice with the attorney or attorneys of the public body regarding the City's position and to instruct its attorney(s), in accordance with A.R.S. section 38-431.03(D), regarding pending litigation, Stagecoach Trails Mobile Home Court (MHC) vs. the City of Benson, Arizona, et. al. and 1983 Civil Rights Claim – Stagecoach Trails Mobile Home Court (MHC), LLC and Jay Kendrick vs. the City of Benson, Arizona, et al. and/or 1983 Civil Rights Claim – Dianne Tipton vs. the City of Benson, Arizona, et. al. Discussion to also include potential claims against prior City Attorney related to these matters.

Councilmember Brooks moved to enter into an executive session with the Mayor and Council, the City Manager, City Attorney Gary Cohen, City Attorney Paul Loucks, the City Clerk and the Chief of Police at 8:14 p.m. Seconded by Councilmember Boyle. City Attorney Gary Cohen then stated the Council could not include the Chief of Police in that discussion since it would be a violation of law. Councilmember Brooks stated he would like to hear the explanation of why it would be a violation, adding the Council can bring in any Department Head they want. Mr. Cohen stated that was only if that employee was the subject of the

discussion, adding the Chief is not the subject of this discussion and stated he doesn't like having to change motions but Chief Moncada is not the subject of the discussion and to have someone in there and have them hear what goes on in the executive session, which by State law is essentially sacrosanct is inappropriate and is against the law. City Manager William Stephens stated the Chief of Police could remain outside the executive session room. Councilmember Brooks stated he would take the City Attorney's advice and amend his motion to enter into an executive session to include the Mayor and Council, the City Manager, City Attorney Gary Cohen, City Attorney Paul Loucks, the City Clerk and for the Chief of Police to standby outside. Amended motion seconded by Councilmember Boyle. Motion passed 7-0.

Council reconvened at 8:56 p.m.

**DEPARTMENT REPORTS:** No comments from Council.

**ADJOURNMENT:**

Councilmember Brooks moved to adjourn at 8:56 p.m. Seconded by Vice Mayor Sacco. Motion passed 7-0.

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Toney D. King, Sr., Mayor

ATTEST:

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Vicki L. Vivian, CMC, City Clerk