

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD JUNE 23, 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 then introduced Steve Medeiros of the New Life Family Worship Center who gave 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:** None

**PUBLIC HEARING:** None

**CALL TO THE PUBLIC:** None

**CITY MANAGER REPORT:**

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

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| Tuesday, June 24, 2014  | - Community Watershed Alliance, 6:30 p.m., City Hall   |
| Thursday, June 26, 2014 | - Planning & Zoning GDP Worksession 7:00 p.m., City Hall   |
| Tuesday, July 1, 2014   | - Planning & Zoning Meeting, 7:00 p.m., City Hall  |
| Tuesday, July 8, 2014   | - Library Advisory Board, 4:00 p.m., City Library  |
| Thursday, July 10, 2014 | - Planning & Zoning "Place Making Presentation," 7:00 p.m., City Hall  |
| Monday, July 14, 2014   | - City Council Meeting, 7:00 p.m., City Hall   |
| Saturday, July 19, 2014 | - Historic Preservation Commission, 9:00 a.m., City Hall   |
| Thursday, July 22, 2014 | - Community Watershed Alliance, 6:30 p.m., City Hall   |
| Thursday, July 24, 2014 | - Planning & Zoning Worksession, 7:00 p.m., City Hall  |
| Monday, July 28, 2014   | - City Council Meeting, 7:00 p.m., City Hall   |
| Friday, June 27, 2014   | - Benson Transportation – Past, Present & Future, 10:00 a.m., Come see the official unveiling of the Historical Railroad logos and murals at the Benson Visitor Center.  |
| Saturday, June 28, 2014 | - Dive-In Movie at the City Pool, gates open at 7:30 p.m. Entrance fee is general admission. \$0.25 for 12 and under and \$1.00 for 13 and up. Movies TBA  |
| Friday, July 4, 2014    | - Benson's Annual 4th of July Celebration. Festivities begin at 9:00 a.m. with the parade and will run all day long at Lions Park, ending with the City's Fireworks Show beginning at 8:30 p.m. See the City's website at <a href="http://www.cityofbenison.com">www.cityofbenison.com</a> for more details. |

Mr. Stephens then stated the Planning & Zoning "Place Making Presentation," on July 10 is an event put on by the College of Agriculture and Life Sciences from the University of Arizona. Mr. Stephens stated the presentation will be on the key principles of community design. Councilmember Brooks then stated on Monday, June 30, 6:00 p.m., at City Hall, the Benson Economic Development Committee will hold their first meeting.

## **NEW BUSINESS:**

### 1. **Discussion and Possible Action on the Consent Agenda**

1a. Minutes of the May 28, 2014 Special Meeting

1b. Invoices processed for the period from June 1, 2014 through June 12, 2014

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

### 2. **Discussion and possible action regarding Ordinance 572 of the Mayor and Council of the City of Benson, Arizona, amending Benson City Code, Chapter 2 “Mayor and Council,” Article 2-1 “Council,” Section 2-1-4(A) “Vacancies in Council”**

City Clerk Vicki Vivian addressed Council stating when a vacancy occurs on the Council, the City Code currently states that the Council will appoint someone to that seat for the remainder of the unexpired term. Ms. Vivian then said State law was changed to require the appointment be until the next regularly scheduled Council election if the vacancy occurs more than thirty days before the nomination petition deadline for the election. Ms. Vivian then stated this change is to simply bring the City Code into compliance with State law, adding the proposed ordinance reads, “The Council shall fill any vacancy that may occur, by appointment until the next regularly scheduled Council election if the vacancy occurs more than thirty days before the nomination petition deadline, otherwise the appointment is for the unexpired term. The appointment shall be made within thirty days of the date the vacancy occurs.” Councilmember Brooks moved to approve Ordinance 572. Seconded by Mayor King. Motion passed 7-0.

### 3. **Resolution 17-2014 of the Mayor and Council of the City of Benson, Arizona, approving a Final Budget for Fiscal Year 2014-2015**

Finance Director Megan Moreno addressed Council stating what they have before them is the Tentative Budget that was adopted by Council on June 23, with 1 change that was made before it was approved, but there have been no changes made to it since. Ms. Moreno then stated the Council held public hearings last Thursday regarding the budget and the property tax levy, adding the budget is now before Council for the final adoption.

Councilmember Brooks stated the Council had discussed furloughs with employees and was trying to get the budget to a place where it could be balanced. Councilmember Brooks then stated he would like to again reiterate that he would like to see something in place for a possible restructuring at some point, so it would be ready to implement, if the Council needed to do so. Councilmember Brooks stated attrition would be the preferable way to go, but that a restructuring might help to eliminate half of the furlough days for the regular employees. Councilmember Brooks then stated he thought that was the general consensus of the Council. City Manager William Stephens addressed Council stating on during several Council meetings, this was discussed and it was agreed to wait until the September/October timeframe to make that decision, adding he agrees that a plan needs to be ready for implementation and he will work on that and put something together for further Council discussion at a possible worksession. Mayor King agreed that a worksession would be appropriate. Councilmember Brooks agreed, adding that he wanted to commend all departments for getting the budget down almost \$2 million below last year’s budget, noting this is showing the public that we understand the need to downsize the budget at this time. Mayor King then stated he felt bad for the employees having to take furlough days, adding he wished the Council would have paid more attention to the budget prior to the current Finance Director being hired. Mayor King then apologized to the employees, stating he is sorry for the hardship and he hopes they understand that the Council is going to do everything they can to eliminate some of the furlough days if things get better. Mayor King then reiterated that he was sorry that the employees had to put up with the inadequacy of Council actions and apologized again, as Mayor.

Mr. Stephens then addressed Council stating some good news was that in the Real Estate Daily-News, a recent article was printed about the Phoenix developer, El Dorado Holdings, Inc., paying \$26.6 million for Whetstone

Ranch and the proposed Whetstone master-planned community in Benson is targeted for 20,000 new homes. Mr. Stephens stated El Dorado Holdings has developed a number of communities, adding in their process of developing, they begin to develop by phase, so they will hold some of the property, but the article contained statements from Mike Ingraham, the Chairman and Jim Kenney, the President saying with regards to the home sites in the Canyons, they will immediately look to sell home sites there, and in addition to that, they have also talked about putting in utilities for water, wastewater and other utilities for the new proposed development. Mr. Stephens then stated he and the City Engineer have met with the engineer for El Dorado Holdings and it appears there are some positive signs that things will move forward, adding the City will look for that in terms of revenue, noting with construction comes construction sales tax.

Councilmember Moncada stated Mr. Stephens did a good job on the proposed budget, adding Mr. Stephens was thrown right into the fire when he started. Councilmember Moncada stated this was a tough job with a tough budget, but he was happy with the way it turned out, adding it is the best case scenario in the current situation.

Councilmember Cook stated he didn't see any changes or updates on the number of furlough days and expressed concern over them being spread evenly across every department. Ms. Moreno stated the furlough days were spread evenly except for the Police Department, which will have half the number of furlough days. Councilmember Cook stated he didn't remember the Council coming to an agreement on that with Ms. Moreno stating the reduction for the Police Department didn't change the amount that had to be budgeted for the personnel, adding they were able to absorb it within other personnel costs in the Police Department, so there was no change on paper for the reductions. Ms. Moreno then stated she recalled the Council consensus being to reduce the furlough days for the Police Department. Councilmember Cook then asked if any effort had been made to afford other departments the same opportunity with Mr. Stephens stating in order to do so, a tradeoff would have to be made with services being cut. Mr. Stephens then stated in the case of the Police Department, there were already 2 positions vacant, adding the original plan was to leave them vacant for 6 months, but an agreement was made to leave the positions vacant for a full year enabling a reduction in furlough days for the Police Department. Mr. Stephens then stated if such an offset could be found elsewhere within each department or with any new incoming revenue, a reduction in the furlough days may be possible, but at this point in time, those offsets aren't there. Councilmember Cook then stated the Library recently lost 2 employees and were only replacing 1, then asked the if the Library would still be required to take 20 furlough days. Councilmember Cook then stated he didn't understand why the Council would treat the Police Department one way and the other departments another way, adding he thought everyone wanted the cuts to be spread evenly. Mr. Stephens stated Councilmember Cook was correct and the proposed budget did contain an equal number of furlough days for all departments; however, at the meeting held on June 2, there was presentation or protest by the Police Department and further Council discussion regarding a loss in Police personnel and protection for the citizens of Benson. Mr. Stephens then stated he believes Police services are very critical to the City, and although he didn't like the tactics, he understands the results. Mr. Stephens then stated he doesn't want the citizens of Benson to be jeopardized and as a result of that meeting and comments from the Council, he went back to the drawing board with Staff and Chief Moncada, adding Chief Moncada was able to find a reduction in the Police Department to reduce their number of required furlough days. Mr. Stephens then stated this was after the original presentation of the proposed budget, which included 20 furlough days for all departments. Mr. Stephens then stated another review of the budget and deeper cuts would be required to lower the remaining furlough days in other departments, adding the reductions in the Library are already levied in the proposed budget. Mr. Stephens then stated if there was any way to reduce furlough days across the board, he would. Councilmember Cook then stated he had also heard there was a great deal of dissatisfaction among the employees that they were not being treated equally and there is some preliminary talk about a "blue flu" type of protest being held informally with Mr. Stephens stating he had heard the same thing. Councilmember Cook then asked if the Council should treat all departments the same, rather than risk losing any service with any department with Mr. Stephens stating he would agree that equity and fairness is always the right approach. Councilmember Cook then stated the Council could revisit the issue now.

Councilmember Brooks stated he didn't think any employee liked furlough days, adding the Council's biggest responsibility is the protection, security and health and safety of the City. Councilmember Brooks then stated

if the Council cuts deeper, they may jeopardize that and he wouldn't want to be responsible for someone getting hurt or killed because services were cut in that area. Councilmember Brooks then stated he sympathizes with employees, adding jobs are hard to get right now. Councilmember Brooks then stated he didn't know how to put it the right way, but he would be thankful to have a job right now, adding he is also looking for a job and he knows things are tough right now. Councilmember Brooks then stated the cuts have to be done, because the Council didn't see this coming earlier, adding some of the past management didn't really keep the Council abreast of where the City was. Councilmember Brooks then stated again, he does sympathize with the employees, but if the furlough days are cut back to 10 furlough days for all the employees, the budget will go up and Council has already approved the Tentative Budget, which means the budget limit cannot be increased. Councilmember Brooks then stated at this point, it is his hope to get sales up, get some things coming into Benson and to get homes being built so the Council can eliminate all the furloughs and the problem itself, but in going forward right now, the proposed budget is the best thing the Council can do.

Councilmember Boyle spoke about the importance of the Police Department as opposed to other staff for the City, stating he understands and appreciates what is being said, but the Police Officers have to wear a bullet proof vest when they go to work, they virtually risk their lives when they pull someone over and they have to wear a weapon when they go to work every day. Councilmember Boyle then stated the things the Police Officers do are above and beyond what the normal person does at their job, adding you can't just say they are like all Staff. Councilmember Boyle stated the Police Officers are the ones who come to your house at 2 a.m. when someone is climbing into your garage and helps you when that happens. Councilmember Boyle then stated he doesn't want to discriminate against other Staff, adding he knows they are very important and if a gas line ruptures in the middle of the night, they have to go out and fix it and he appreciates that, but they don't have to do it with a gun strapped to their wrist hoping someone is not going to shoot them. Councilmember Boyle then stated he also thinks that it's important that the Police have the leeway to work within their own department budget and are given the ability to offset the furloughs by reducing other costs, therefore, lowering the department's furlough days. Councilmember Boyle then stated he didn't see anything unfair about this, adding they worked within their own budget to do this, adding if the Council isn't careful, they might further injure the Police Department, which would be a tragedy.

Councilmember Wangsness stated he tended to agree with Councilmember Boyle that all departments aren't created equal, adding some certainly have priority over others as far as the citizens are concerned because life and limb has to take priority over a library book, whether we like it or not.

Councilmember Moncada then stated when the Council interviewed Mr. Stephens, they stressed to him that it was going to be a difficult budget year, adding the Council made the right choice in hiring Mr. Stephens and now they needed to give him the opportunity to do his job. Councilmember Moncada then stated the budget before Council was essentially the budget Mr. Stephens proposed with a few minor changes, adding the Council wanted to see expenditures reduced and the proposed budget is how Mr. Stephens accomplished reductions. Councilmember Moncada then stated he thinks the Council needs to show faith in Mr. Stephens and give him the opportunity to see if his plan works, which is why he thinks the Council should approve the budget the way it is.

Councilmember Cook stated on the surface, he was equally moved as anyone in the room with emotional arguments and assertions, but on the other hand, the plea for the Police Department about what services the City is going to lose does not balance with leaving 2 Police positions vacant just so they can reduce the number of furlough days in the Police Department. Councilmember Cook stated all departments are not created equal, but he would hate to see what would happen if the City lost service with the Water Department, the Gas Department or the Wastewater Department, adding the loss of those services would affect everyone immediately. Councilmember Cook then stated if Lions Park was shut down in the middle of summer, there would be an incredible revolt in the City. Councilmember Cook then spoke about potential revenues coming in from the proposed Greyhound contract and a possible contract with Amtrak, which may erase the budget deficit in the Transit Fund, possibly leasing out the restaurant at the Golf Course to eliminate the Golf Course deficit and the possibility of new homes being sold in the Canyons subdivision, adding he would like to work on reducing furlough days in the other departments from 20 days to 10 days and then treating all the City

departments the same from there. Councilmember Cook asked if that would be part of the City Manager's job or if that decision would need to be made by the Council with Mr. Stephens stating it would be a little of both. City Attorney Gary Cohen stated that discussion or decision could not be made at the meeting tonight since it was not on the agenda.

Councilmember Brooks then moved to approve the Resolution 17-2014. Seconded by Councilmember Wangness. Motion passed 7-0.

4. **Resolution 18-2014 of the Mayor and Council of the City of Benson, Arizona, approving the application by the Benson Historic Preservation Commission for a Certified Local Government Pass-Through Grant administered by the Arizona State Historic Preservation Office for assistance in completing an Inventory of structures on Fourth Street**

Finance Director Megan Moreno addressed Council stating The Historic Preservation Commission was removed from the upcoming budget; however, there is \$4,500 in the City Promotions line item for Council to distribute and she would recommend any required grant match for the Historic Preservation Commission come from that line item.

Councilmember Brooks asked about the last study and whether or not people in the proposed downtown sector on the west side wanted to have a Historical District designated, adding the property owners will then be restricted to keeping their property historically themed. Planning Technician Michelle Johnson addressed the Council stating the last study was completed in 1997 and then explained this process. Ms. Johnson stated an inventory of every structure within the address range, including houses, detached garages, sheds and such, has to be completed, adding at that point, each individual structure is deemed contributing or non-contributing to a historic district, and if more than 50% are non-contributing, that range of addresses cannot be applied for as a district, noting each individual structure would have to apply for the designation on its own. Ms. Johnson then stated the Commission is not at the point of even applying for the designation, but is requesting the grant to be able to complete the required inventory to see what the options would be. Ms. Johnson then stated about half of the property owners have been talked to over the course of many years, adding after the inventory is completed, they can decide if they want to go forward with the nomination, which requires a more in-depth study. Ms. Johnson then stated if that study is completed, the application for a designation goes to the State Parks office for review and if approved, they send it to the National Parks office, who will then decide if the nomination should be registered. Ms. Johnson then noted the Commission is at the very preliminary stage to see how a nomination should go forward; as a district or as individual structures. Mayor King asked about current designations with Ms. Johnson stating there are several individual homes registered and the Apache Powder district, the Barrio district and the Railroad district.

Councilmember Brooks asked if there was a size requirement to apply as a district with Ms. Johnson stating there is no minimum size requirement; however, the district would have to be concurrent defined area, with 50% or more contributing structures, otherwise, each qualifying structure would have to apply independently for its own designation. Councilmember Brooks then read the Council Communication for this item so the public would have this information. The statement read, "The City of Benson Historic Preservation Commission proposes to conduct an inventory of structures located along Fourth Street. There are approximately 52 structures in the original downtown commercial core of the City which may qualify for historic recognition according to the National Register of Historic Places. The intent of the inventory is to determine if multiple structures can be nominated together to form a historic district or if individual structures need to be nominated separately. This grant application does not seek to complete the full nomination process, but simply to inventory structures to determine which may be eligible for nomination. In order to help fund the inventory, which will be conducted by a licensed architect familiar with Historic Property Inventory Forms, the Historic Preservation Commission would like to apply for a federally funded pass-through grant, administered by Arizona State Parks State Historic Preservation Office. This is a matching grant for which the City of Benson will be responsible for 40% of the cost and the grant funding will cover 60% of the cost. The estimated total cost is \$4,000.00. The grant application requires a Council resolution confirming that the community supports the endeavor and that matching funds can be supplied. The Historic Preservation Commission is aware that the Commission has not been allocated any funds for Fiscal Year 2015; however, if

the grant is awarded (grants are expected to be awarded in late August, 2014), the Commission would like to reassess the financial status of the City to determine if the required 40% match could be taken from General Fund accounts. The 40% match is expected to be \$1,600.00.”

Councilmember Moncada asked if the application to move forward and apply for the designation would come back for Council consideration with Ms. Johnson stating once the inventory is completed, the Commission would speak to the individual property owners to see if they are interested in participating in getting the designation, then they would move forward with the nomination process, which would require another set of reports at the federal level, the reports would then move to the state level and finally back to the City. Ms. Johnson stated at that point, the Commission would need another licensed architect do a more in-depth study of those structures that qualify. Ms. Johnson stated that study would then be sent to the State Parks office, where it would be reviewed and possibly recommended to the National Parks office, where the final determination of a designation is made. Ms. Johnson stated if the Commission gets to the point of applying for the second in-depth study, the application would be presented to Council for their consideration. Mayor King stated the process is just beginning with Ms. Johnson stating the Barrio district applied for its designation before 2005 and just received its final recognition and became a registered district in 2011, adding this is not a 1 or 2 year process.

Councilmember Brooks stated he liked the idea, adding a lot of places have lists of historical locations for people to look at while they are traveling, and this would put Benson on a map for historical locations of old buildings and such. Councilmember Brooks then stated he thinks Benson is heading in the direction of an old railroad town theme and should preserve all of our historical buildings. Ms. Johnson then explained the grant approval process, which is not precisely competitive grant, adding there is an allocation of money State Parks receives and this year it is \$85,000. Ms. Johnson then stated there are 30 certified local governments in the State of Arizona and every year that this grant comes out, those cities are listed in order of funds they have received in the past, as well as the order of the date they became a certified local government, noting Benson became a certified local government in May, 1992. Ms. Johnson then stated in that list of 30, Benson is currently number 10, adding the maximum amount of a grant that can be awarded is \$10,000. Ms. Johnson then stated if all the cities listed above Benson, want grants and are awarded grants in the amount of \$10,000, Benson won't be awarded this grant, regardless of how good the application is. Ms. Johnson then stated in the past, there has always been enough money to trickle down; however, the Commission won't know if they will be awarded any funding until the approvals are completed.

Councilmember Boyle stated the Barrio district has been registered and asked if Ms. Johnson could point out any benefit that registration has been to the community, besides the district having a plaque. Councilmember Boyle continued speaking about the City's financial situation, but noting \$1,600 was hardly noticeable. Councilmember Boyle stated he realized the Council needed to start looking for ways to make the City more attractive for people to come and look at it, but asked again, if there was any economic benefit from the Barrio district being registered. Ms. Johnson stated once the structure or district is registered, the individual residents get a property tax break with Councilmember Boyle stating this ends up coming out of the City's pockets at the other end, but was probably not that critical. Historic Preservation Commission Chairperson Ruth Wilson then addressed the Council stating the business area is completely different than a residential area, adding Benson's history is just as important as Tombstone's history. Councilmember Boyle agreed. Councilmember Brooks then stated once the designation is approved, the property owners can't change the face of their buildings with Ms. Johnson stating when changes are desired, a State architect and engineer approves them to make sure the changes are not so dramatic as to change the historical content. Councilmember Brooks stated this is preserving the town with Councilmember Boyle stating conversely, this would restrict property owners' rights by not allowing them to change their homes. Ms. Johnson stated the property owners agree to this before the application moves forward with Councilmember Boyle stating if the property owner sells the property, it could be an issue. Ms. Johnson stated the potential buyers should be informed of the designation.

Councilmember Cook stated he didn't know who to congratulate, but he was glad the Planning & Zoning Commission and the Historical Preservation Commission are taking the initiative to apply for this grant and get an inventory done. Councilmember Cook then stated he was hoping Ms. Wilson had a sense of what most property owners in the proposed area would want with Ms. Wilson stating the Commission was going to apply

for 5 individual designations last year, but the State said the inventory the Commission was using was too old. Ms. Wilson then stated more buildings probably qualify so the Commission wanted to see if a group designation would be an option vs. individual designations. Ms. Wilson then stated the Commission then had to wait for the new grant to become available, adding the review process usually starts in February and ends in May, but this year, the process started in May and will be ending in July, which puts the required grant match into the upcoming budget.

Councilmember Wangsness stated he was in favor of the application, adding it's a one-time process to get the designation and is a way to preserve part of Benson's past.

Councilmember Moncada moved to approve Resolution 18-2014. Seconded by Vice Mayor Sacco. Motion passed 6-1 with Boyle nay.

5. **Discussion and possible action regarding when executive sessions can be called, clarifying items that can be discussed and postings**

City Manager William Stephens stated this item was on the agenda at the request of Vice Mayor Sacco and Councilmember Brooks. Councilmember Brooks then spoke, stating he had some personal questions on the many times the Council has gone into executive sessions, adding it wasn't clear that the Council was really going in executive session for the right purposes. Councilmember Brooks then stated he did some investigating on his own and got some advice from various areas, adding these included the League of Arizona Cities and Towns, the Ombudsman's Office for Arizona, and some personal comments from the City Attorney. Councilmember Brooks then stated there are 6 reasons the Council can go into executive sessions and he would like to read them so the public understands this too. Councilmember Brooks then read Arizona Revised Statute, Section 38-431.03, which reads,

Executive sessions

- A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:
  1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.

Councilmember Brooks stated this would be up to the employee, adding if the employee wanted the discussion to occur in an executive session or in an open meeting, he would have the right to decide that. Councilmember Brooks then continued reading,

2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.

Councilmember Brooks stated when the Council is working with items that are not opened to the public; the Council has to take them in an executive session. Councilmember Brooks then continued, stating the third reason would be

3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.

Councilmember Brooks then stated this is the reason the Council includes on the agenda that gives them the right to go into an executive session during the meeting, adding if the Council runs into an item on the agenda

that requires advice from the City Attorney, this gives them the right to go into an executive session. Councilmember Brooks then stated what the statute doesn't say is that the Council has to inform the public which of the 6 reasons they will be using to go into the executive session. Councilmember Brooks then stated the fourth reason would be

4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.

Councilmember Brooks then stated the fifth reason would be

5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations (will add to this, labor unions is an example) regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.

Councilmember Brooks stated the sixth reason would be

6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.

Councilmember Brooks then stated the seventh and last reason the Council could go into an executive session would be

7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

Councilmember Brooks stated those are the 6 reasons the Council can go into an executive session. Councilmember Brooks then stated the City Clerk has done a pretty good job of notifying the public in advance of why the Council would be going into an executive session, adding she finds the appropriate reason and lists it on the agenda. Councilmember Brooks then stated if the Council runs into a problem on an agenda item and needs to go into an executive session, he would like the Council to refer to the City Attorney and ask him which of the 6 reasons the Council is using and then include that language in their motion to go into executive session, so the public is aware which reason the Council is using. Councilmember Brooks then stated he would also like the Council to address the public when the Council reconvenes from an executive session, giving a synopsis of what kind of decision the Council came to, whether it was to either table that item or to move ahead with litigation. Councilmember Brooks stated he would like to basically give the public some information on what the Council came to a conclusion on in the executive session or that they would need more advice and would be tabling the item. Councilmember Brooks then stated he had seen the Council come out of an executive session a lot of times and just go right to the next agenda item and the public is left not knowing what happened in the executive session. Councilmember Brooks then stated in all fairness to the public, he would like the Council to make some kind of statement of what conclusion the Council came to after hearing the advice of the City Attorney so the public is aware of that, adding this is what he wanted to put before the Council.

Councilmember Cook stated he would like to hear from the City Attorney. City Attorney Gary Cohen addressed Council stating he believes the City Council does comply with the executive session law at all times, adding Councilmember Brooks is correct in that there are times we know an executive session will be needed to discuss a legal issue or settlement of a pending litigation case, and it is put on the agenda. Mr. Cohen then stated the Council and the public also know there are things that happen during the course of a meeting, and from time to time, legal issues come up where Council may decide they want legal advice, adding for this reason, there is a provision on the agenda at all times allowing the Mayor and Council to enter into an

executive session for legal advice on an issue, should the Mayor and Council vote to do so. Mr. Cohen stated with the regards to the desire to comply with the State law regarding executive sessions, unless he could be pointed to some example he is not remembering, the Council does comply at all times and will continue to do so, adding it is his job to make sure the Council does and he will continue to do his job in that regard. Mr. Cohen then stated with regards to the idea of coming out after an executive session and announcing what was decided, the Council can do whatever they want to do, adding it is his job to just advise, but there are a couple problems with that. Mr. Cohen stated the executive session law also states that what is discussed in an executive session cannot be disclosed publicly, adding talking about what happened in the executive session is a violation of the law. Mr. Cohen then stated even if wasn't a violation of the law, there are times, such as a pending litigation matter, that he would recommend to the Council not to disclose things about strategies, litigation, how they want to go or where they want to go. Mr. Cohen then stated another problem is if he advises Council that something is contrary to the law, but they disagree and want to go forward, he wouldn't think the Council would want to publicly announce that. Mr. Cohen then stated hopefully, the public understands that private citizens have a right to talk to their attorney and it's a confidential conversation for a reason; to encourage full and frank disclosure, adding the City doesn't have a right to find out what other people are talking about with their lawyers. Mr. Cohen then stated the City has that same right and it's just really to make sure that things are done in a legal way and in the most strategic way under the law. Mr. Cohen then stated with regards to announcing what's decided in an executive session, those are the problems he sees, but the Council can do whatever they want, adding he simply advises and the Council makes the decisions.

Vice Mayor Sacco stated according to the Statute, there are 7 reasons the Council can enter into an executive session with Mr. Cohen adding one of those reasons is broad, which gives the Council the ability to have an executive session for discussion or consultation for legal advice with the attorney or attorneys of the public body.

Councilmember Moncada asked Mr. Cohen if Benson was the only City that had the language on the agenda to allow the Council to enter into an executive session for legal advice on any item listed on the agenda with Councilmember Brooks stating he did talk to the League and they said that a number of cities have this language on their agendas also. Mr. Cohen stated he was aware of at least 20 other cities that have the exact same language on their agendas.

Councilmember Brooks then stated the statute in the language on the agenda needed to be changed from §38-431.03 to §38.431.03(3). Mr. Cohen then stated the language on the agenda is to give Council the maximum ability to talk to their attorney when they deem it is appropriate, adding the statement at the end of the agenda reads, "Upon a vote of the majority of the City Council, the Council may enter into Executive Session pursuant to Arizona Revised Statutes §38-431.03 to obtain legal advice on matters listed on the Agenda." Mr. Cohen then stated that is the general legal advice provision, adding "(3)" will be added to the language.

Vice Mayor Sacco stated he was glad this issue came up, adding the Council has been having too many executive sessions for items that are not listed in the statute. Councilmember Moncada asked Vice Mayor Sacco to name one time that the Council held an executive session that was not allowed by law. Councilmember Brooks stated he remembered one time the Council went into an executive session because they were going to get advice from the City Attorney and the Attorney wasn't even here that day, adding the Council still went into an executive session and mislead the public. Councilmember Brooks then stated there are probably other times, adding sometimes there is a grey area. Councilmember Brooks then stated he spoke to Mr. Belshe from the League and Mr. Belshe told him that the Council will have to consult with their Attorney and rely on his advice. Councilmember Brooks then stated before the Council makes a motion to enter into an executive session, he would like for the City Attorney to say which of those 6 reasons in the statute applies because otherwise, the Attorney is just saying the Council should enter into an executive session and Councilmember Brooks doesn't know if he is doing what is legal or not by voting to enter into the executive session. Councilmember Brooks then stated he wasn't trying to say anything bad about the City Attorney, but he would like to know which provision applies and he thinks the public is entitled to know what provision the Council is using to hold an executive session to discuss City business that the public should be entitled to hear.

Vice Mayor Sacco stated the statute is pretty clear, adding there are 7 items listed that the Council can hold an executive session for and stated the Council hasn't really been following them. Councilmember Brooks stated that is why he is making the proposal that the Council ask the City Attorney what provision would apply to a proposed executive session and use that provision in the motion to enter into an executive session. Councilmember Brooks stated it maybe clouds it up a little more as a Council, but makes it really clear for the public because they are entitled to hear City business. Councilmember Brooks then stated one time the Council discussed the previous City Attorney, Mr. Masee and his dismissal, adding it was uncomfortable and didn't feel right, but there is no provision in the executive session law that discussion to happen in an executive session so the Council had to do it in public. Councilmember Brooks then stated he was just trying to make it clear that not all of the Council knows the laws and sometimes they may make mistakes and he doesn't want to do that. Councilmember Brooks then stated when the Attorney tells the Council they can enter into an executive session, he would like to know what provision the Attorney is using and once the Attorney tell him what provision is being used, the Council can make a motion to go into executive session with that provision. Councilmember Brooks then stated the other thing he wanted to bring up was that if the Council is litigating with some lawsuit or something and they go into an executive session and instruct the Attorney to continue litigation, a lot of times the Council comes out and doesn't say anything to the public. Councilmember Brooks then stated he thinks the Council does need to say that they are going to continue with the litigation and he thinks the taxpayers are entitled to know how much that is going to cost them, because it's their money. Councilmember Moncada stated the Council doesn't know how much litigation will cost with Councilmember Brooks stating the Council can ask the Attorney, because if it's going to cost \$5 million, the Council might want to discuss it further.

Mayor King stated the Council can't legally discuss the executive session, adding to come out and say what was discussed in the executive session would concern him. Councilmember Brooks stated the Council is not to make decisions in the executive session, adding decisions are to be made in the open meeting. Mr. Cohen then spoke, stating while it is true that there are certain decisions that cannot be made in executive sessions, the Council can direct the City Attorney on the handling of a litigation matter, or give direction on how to proceed on a litigation matter, adding those are the kind of decisions that can be made in executive sessions. Mr. Cohen then stated he appreciated the conversation and discussion, adding he is glad the Mayor and Council want to follow all the laws, particularly the executive session laws and for what it's worth, he will continue to assure the Mayor and Council that he will do his best, as he has from day one, to make sure the Council does things in compliance with all the laws including the executive session laws.

Vice Mayor Sacco stated if a provision is not listed that would apply, the Council can't go into an executive session with Mr. Cohen stating that is correct, but reminding the Council that one of the 7 provisions is a very broad provision that says, "discussion or consultation for legal advice with the attorney or attorneys of the public bodies," adding that language is included on each agenda so the public knows that there could be a time that a legal issue arises and the Council may seek legal advice. Mr. Cohen then stated if the Mayor and Council decided to hold an executive session for that reason, he would give him his advice in the executive session and the Council would decide how to proceed when the Council reconvened and addressed that item on the agenda.

Councilmember Brooks stated he had a bit of a problem with part of this, adding he thinks if there is going to be something that costs the taxpayers \$10,000 or \$50,000, they have a right to know the Council is going to spend that money. Councilmember Brooks then stated if the public has a problem with that, they can come to the Council and tell them to stop. Mayor King expressed concern over discussing what was said in the executive session with Councilmember Brooks stating the Council can't discuss strategic plans or the way to play a defendant or the person that is filing suit against the City in litigation, but telling the public how much it may cost isn't telling the public anything, adding all it is telling them is the Council is going to pursue moving forward. Councilmember Brooks stated the person in litigation with the City will know the next day anyway, adding he isn't asking the Council to say how it will be done. Councilmember Brooks then stated what he is asking the Council to do is to let the public know they are going to go forward with litigation and it could cost \$100,000, so if the public doesn't like that, they can tell the Council to stop it. Councilmember Brooks then stated the public is entitled to know that expense, because the Council moves forward and the public doesn't know how much money the Council is spending, adding to be honest, he wasn't sure how much money the

Council was spending either. Councilmember Brooks then stated that is a question the Council needs to ask the Attorney and Mr. Cohen could tell the Council that isn't giving away any information to the litigant at all, adding the cost doesn't affect the strategy the Council may use in trying to negotiate.

Councilmember Cook stated what he had noticed for the past 5 years in attending City Council meetings, was that every time there was an executive session, the City Clerk put the reason for that executive session and listed the statute on the agenda. Councilmember Cook then stated he thinks to do more is a waste of time. Councilmember Cook then stated he also thinks when the Council is prevented by State law from discussing what happens in an executive session, that to include people that are not a part of the discussion or a part of the legal advice the Council gets from the City Attorney, that don't know the background and the details, politicizes these decisions and takes the power out of Council's hand, the very hands that were elected to look into, research and make these decisions. Councilmember Cook then stated to politicize it and puts it in the hands of people that have almost no knowledge, background, legal advice or possibly even an idea of what the Council is dealing with, adding he thinks politicizing it is an incredibly bad idea.

Councilmember Brooks stated he wanted to make it clear that the Council would not be giving out information discussed in the executive session, like the reasons they are going to move forward because you don't want the public or the litigants to know that information, adding that is confidential and private among Council with the attorney/client privilege. Councilmember Brooks then stated as far as the decision on what the Council is going to do, the litigant is going to know that anyway, because within a day or two, the Attorney is going to file papers letting the litigant know the City is continuing. Councilmember Brooks then stated the Council wouldn't be giving anything away, adding the litigant isn't entitled to the Council's game plan and he doesn't want them to know that, but the final decision on moving forward doesn't tell the litigant anything. Councilmember Brooks then stated he thinks the public needs to know that the Council is going to continue or not, and to just come out of the executive session, not say a word and just move right onto the next agenda item shouldn't be done.

Councilmember Wangsness stated the only problem he sees in trying to come out of an executive session and giving a summary, is the Council may inadvertently disclose something they shouldn't. Mayor King agreed.

Councilmember Brooks stated what he is saying is the Council should come out of the executive session, reconvene and say that the advice was to move forward with this lawsuit and it could possibly cost up to \$20,000, adding that is all the Council needs to say. Councilmember Brooks then stated the public would get the information that the Council made a decision, but they wouldn't know how it was made or what was discussed, but would know that the Council decided to move forward and what it might cost. Mayor King stated he felt that could be just as bad as not saying anything, adding the Council would be giving the public an idea on what might be spent, but not what for and it made no sense to him to do so.

Councilmember Moncada stated the State law doesn't say the Council can't give the public the game plan, but can give them everything else; the State law says what is discussed in an executive session stays in the executive session and can't be discussed publicly. Councilmember Brooks restated his opinion that the Council should come out of an executive session and say they have decided to move forward with litigation and it may cost us up to \$10,000 or \$100,000. Councilmember Moncada stated the discussion still happened in the executive session and therefore, stating anything discussed in the executive session would be giving out executive information to the public. Councilmember Moncada then stated the Council also wouldn't know the potential cost of continuing litigation with Mayor King agreeing. Councilmember Brooks then stated he would like to direct Mr. Cohen to look that over and come up with a written statement on this.

Mr. Cohen asked Councilmember Brooks to please clarify what he wanted him to do with Councilmember Brooks stating he would like Mr. Cohen to clarify if the Council, during litigation, could hold an executive session to discuss the upsides and downsides of a case and if the Council felt they would prevail or want to move forward and then end the executive session and reconvene and in the open meeting, basically say that the Council decided to move forward with this litigation and it could cost up to \$50,000. Mayor King asked how the Council would know the cost with Councilmember Brooks stating the City Attorney would have to give the Council an estimate on that. Councilmember Cook stated the City Attorney wouldn't know, as that would

be predicting the future. Councilmember Brooks disagreed, stating he thinks the Attorney has a good idea on what going before the Superior Court or the Appellate Court might involve.

Councilmember Cook stated he did not get the feeling that there was a consensus on the Council to move forward with the directive to the City Attorney Councilmember Brooks requested. Councilmember Cook then moved to table this item. Seconded by Councilmember Wangsness. Vice Mayor Sacco stated he did not understand why the Council was tabling this, adding the statute is pretty clear and concise and then asked what else there was to discuss.

Councilmember Brooks stated he would amend the motion just to get an answer from Mr. Cohen on that, adding he would like to hear Mr. Cohen's view on that and asked Mr. Cohen if that was something he could give the Council. Mayor King stated there was a motion on the floor to table this item. Councilmember Brooks then stated he had a serious problem with how many times the Council does things in the back room that the public is consistently upset about because they don't know what the Council is doing. Councilmember Moncada then told Councilmember Brooks that if he was opposed to an executive session, he could vote nay when the time came, adding that would be Councilmember Brooks' way to oppose going into an executive session. Councilmember Brooks stated he was trying to make the government clear to the people, adding he wants clarity here. Councilmember Moncada stated Councilmember Brooks was making it more complicated with Councilmember Brooks disagreeing. Councilmember Brooks then stated he wants the Council to let the public know what provision of the statute is being used to allow the Council to hold an executive session and then when the Council comes out, to let the public know if the Council is going to continue litigation and how much it may cost. Councilmember Brooks then stated if the public thinks it's too much money to spend on litigation, they could come to the Council as constituents and say the Council should stop litigation. Councilmember Brooks then stated if all the Council is hearing that, they could then put it on the agenda to look at because the constituents don't want it to continue.

Vice Mayor Sacco stated again, the statute is pretty clear as to when the Council can go into an executive session, and asked what else there was to discuss. Vice Mayor Sacco then asked Mr. Cohen what was left to discuss with Mr. Cohen stating with all due respect, the Council could discuss what they wanted to discuss. Mr. Cohen then stated City Manager William Stephens had a great line a couple meetings ago, that he serves at the pleasure of the Mayor and Council and stated the City Attorney also serves at the pleasure of the Mayor and Council. Mr. Cohen then stated he was happy to answer any questions Council may have or do anything the Council directed him to do. Vice Mayor Sacco stated if the Council doesn't know what to do, they table items, adding in his opinion, that is a cop out. Vice Mayor Sacco then stated the statute is pretty clear, and asked why the Council didn't follow the statute rather than tabling this item, adding the Council isn't going to discover anything new, unless there has been some case law that overrides the statute. Mr. Cohen stated he agreed that the statute on executive sessions is crystal clear, adding he knows there has been no recent case law on executive sessions. Mr. Cohen then stated he strongly believes that since he has been the City Attorney, the Council has followed the executive session laws. Mr. Cohen then stated it is his job to make sure the Council continues to do so, adding one of his many responsibilities to the Mayor and Council is to make sure they don't run afoul of the law and is what he intends to keep doing. Vice Mayor Sacco then restated that the Council always seems to table an item when they don't know what to do, adding that is a cop out. Vice Mayor Sacco then stated the statute is very clear and the Council should follow the statute and not table this item because someone thinks maybe there is another way of doing this.

Mayor King then called for a vote. Councilmember Moncada asked what the motion on the floor was with Councilmember Cook stating his motion was to table this item. Motion then passed 5-2 with Vice Mayor Sacco and Councilmember Brooks voting nay.

6. **Discussion and possible action to Update and Codify Benson City Codes using an outside third party service**

City Manager William Stephens stated this item is on the agenda at the request of Vice Mayor Sacco and Councilmember Brooks. Councilmember Brooks then addressed Council stating the Council knows the City Codes have been outdated for a long time, adding there was an attempt in the past to try and bring them up to

State levels, but it didn't happen. Councilmember Brooks then stated Staff is working on the General Development Plan (GDP) right now and the Council will be approving it, but the codes need to be updates so the language in the codes match the GDP and contractors will know how know how to do business in the City. Councilmember Brooks then stated he would have liked to have the updating process done through the citizens with a committee going through all the codes and making them all congruent with each other so they made sense, but that process would take quite a while, maybe up to a year, if they went through the full code. Councilmember Brooks then stated he did talk to someone at the League several years ago about a codification type service, where they come in and update all the State statutes so the codes are compliant with all the State levels. Councilmember Brooks then stated they will remove language that might be conflicting with other codes and in the end, the Council would end up with a product that will be up-to-date and congruent with itself, with no conflicts, and that could be in a booklet form and in a digital form so everyone could use them. Councilmember Brooks then stated he would like the Council to use a third party service to update and codify the codes, so they make sense and he would like to have the service to report and communicate with the City Council and City Manager through some scheduled worksessions. Councilmember Brooks then stated he thinks the codes can be up-to-date in a short period of time, adding if development happens on the hill, it would be beneficial to have them done.

Vice Mayor Sacco stated he thought it would be quicker and cheaper to go outside and get this done, adding when we try to do it inside, it just goes this way and that way. Councilmember Brooks stated he was recommending that. Vice Mayor Sacco continued, stating he thinks it is more beneficial to go outside to a professional firm and let them do the investigation and come up with recommendations to present to Council. Councilmember Moncada asked if the codes Councilmember Brooks wanted to have a third party look at were the building codes, the zoning codes or the City codes with Councilmember Brooks stating he was talking about all of them. Councilmember Moncada asked if Councilmember Brooks had an idea of what it would cost with Councilmember Brooks stating he would like the Council to issue a Request for Proposals to see how much it would be. Mayor King stated the Council would be looking at \$30,000-\$50,000 to have an outside party do it.

Councilmember Brooks stated it took a year or longer to work on Chapter 7 in the City code and the public didn't want anything to do with it, adding he doesn't want to do that again. Mayor King asked how the Council would know what updates were being done with Councilmember Brooks stating an outside party hired to do this, does this for a living. Mayor King then stated the Council fought hard against certain named codes and then asked how the Council would know that the party would not use the same International Codes the Council fought against.

Councilmember Moncada stated this was the part that made him laugh, adding the suggestion is to pay someone from outside the community to design the codes for our City. Councilmember Moncada stated this is the Council's job and is what they were elected for. Councilmember Brooks stated the proposed new Chapter 7 in the City code was so stiff, it almost matched Ventura, California, which was found illegal, because they took away all the rights of the people, adding he is really here for the rights of the people. Councilmember Brooks then stated he was not going to let City Staff dictate to the City what they think the City should do. Councilmember Moncada then asked Councilmember Brooks if he wanted to let someone who doesn't even live in the community write the codes with Councilmember Brooks stating the Council would give this person direction and basically, they will look at all the codes that do not comply with State statutes, and clean those up. Councilmember Brooks then stated they would also look at conflicting language in the codes. Councilmember Brooks stated they will come to the Council and ask if the Council wants the codes more strict or lax and the Council can then give them direction. Councilmember Moncada stated this is something the Council should be doing themselves in worksessions, adding the suggestion is to pay someone else to tell the Council what to do in worksessions.

Councilmember Brooks then stated there are some proponents that liked the proposed Chapter 7, but he thinks the majority of the town doesn't. Councilmember Brooks then stated he was not happy with the way the Building Department came up with this the last time, adding he was against it from the beginning and was against it again and then asked why he would want to go back and start over with the same people who drafted it the first time. Councilmember Moncada stated the document presented to Council was just a draft and it was

up to Council to make recommendations for the changes they wanted, adding Staff then goes back and makes those changes before bringing a final document back to the Council for consideration. Councilmember Moncada then stated in this process, it's up to Council to say the draft is too stiff or too lenient and make those changes as they review the document.

City Manager William Stephens addressed Council stating he was not here when the Council looked at Chapter 7 in the City codes, but he knows there was quite a bit of conflict, adding the direction was given to the then-City Manager to table the looking at the codes until the atmosphere cleared, if you will. Mr. Stephens then stated some cost estimates were gathered for a third party consultant, adding the fee could be \$70,000-\$100,000. Mr. Stephens then stated in upcoming Fiscal Year 2015, which we are about to enter, that expense is not programmed into the budget, adding there is no funding for that. Mr. Stephens then stated City staff is currently working on the GDP to get that brought forward to Council and is also reviewing other codes, adding the proposed changes will not be brought forward at the same time, noting in the past, when the changes were brought forward all at once, it resulted in conflict and they were not approved. Mr. Stephens stated if at some point in time, the City had the funding available for a third party to come forward and assist the City, the Council could look at it at that time, but he didn't think now is that time, due to the financial condition of the City.

Vice Mayor Sacco asked if there was a problem in getting a quote, adding the Council is not committing themselves to anything. Mr. Stephens stated it could be done if that is what the Council wants. Councilmember Moncada stated it takes money to get a quote, adding it also takes Staff time, when they could be working on other things. Councilmember Moncada then stated the Council already knows the fees would be \$70,000-\$100,000, adding it is ridiculous to pay someone else to do the Council's job. Vice Mayor Sacco disagreed.

Councilmember Brooks stated the Council could revisit this issue in the future, but added he knows there are several things he has seen out of compliance with State statutes in the administrative code and he doesn't know if anyone is working on it, but stated the City codes need to be cleaned up. Councilmember Brooks then stated the Council should have had this code already done, adding any new developers coming in are going to have a tough time with it. Councilmember Brooks then stated he agrees that the City is not in a financial position to do too much if it's going to be that expensive, but added the Council does need to work on the codes somehow, adding they could hold worksessions to get part of it done. Mayor King agreed the Council should start worksessions, adding the Council should stop hiding from this and bring it out and do it. Mr. Stephens stated he knew the process had been started at the Planning & Zoning level for the GDP, adding he would talk to Mr. Garcia to see where it is and when it will be brought forward.

City Attorney Gary Cohen stated there was mention of noticing codes that were known not to be in compliance with State law, adding he has had a couple instances come to his attention and when they do, he looks at them, and makes a determination to make a revision for Council consideration, such as Ordinance 572, which was presented to Council tonight. Mr. Cohen then stated if there is ever something that comes to the Council's attention, he is happy to help in that regard, adding this is similar to the Council discussing executive session law. Mr. Cohen then stated instead of having to call the League of Arizona Cities and Towns, the Council can call on the City Attorney at any time, adding he is always available to Council to answer questions about any legal matter including an ordinance that may need to be revised.

Councilmember Cook stated it was his understanding that Planning & Zoning Commission along with Staff are currently working on the GDP, and when they are finished, it will be brought to Council, adding there is a process that must be completed. Councilmember Cook then stated once the GDP is acted on by the Council, the Planning & Zoning Commission and Staff will work on the building codes and when that process, including public hearings and recommendations are completed, the building codes will be brought to Council. Councilmember Cook then stated it seems to him that discussing a third party updating the codes at a cost the City can't afford and Chapter 7, are just being used as scare tactics and a political vehicle to obtain power, adding he thinks the Council needs to table this item and leave it tabled. Mayor King asked if that was a motion with Councilmember Cook indicating it was his motion. After receiving no second, Mayor King stated the motion died for the lack of a second. No further discussion was held and no subsequent motion was made.

7. **Review of City Finances with emphasis on April and May financial results and the City's financial position at May 31, 2014**

Finance Director Megan Moreno addressed Council reviewing financial highlights for the month of April, stating the information for May was unavailable at the time the Council packets were distributed. Ms. Moreno then stated she had given Council the information on May, and could answer any questions Council may have, but that the presentation would focus on April. Ms. Moreno stated April was another good month, adding May is where the City heads into slow months, so this is a very different picture. Ms. Moreno stated with April, the City brought in more revenue than it expended during the month, adding the cash sat at \$1.2 million and the bond proceeds remain at \$1.12 million, noting the bond proceeds haven't changed since the City hasn't done a bond draw. Ms. Moreno then stated as reflected in the City's fund balance, revenues exceeded expenditures by \$109,000; however were still in the negative \$105,000 year-to-date, but noted it was a significant change from where the City was in April, 2013. Ms. Moreno then stated Citywide revenues were \$804,000 and were \$7.8 million year-to-date, which is a substantial decrease in revenues over last year, but as she has explained in prior presentations, the 3 major differences in revenues over the prior fiscal year were less grant revenue, as well as less construction sales tax and less in the donations the City received for the Golf Course. MS. Moreno then stated personnel for April was \$385,000 and is an increase over April of last year.

Ms. Moreno then addressed the General Fund stating she wanted to point out that revenues exceeded expenditures for the General Fund as well, adding April was another positive month. Ms. Moreno then stated sales tax was up and year-to-date was up over \$100,000 from last year, which is great. Ms. Moreno then stated what the Council would see in May, though, was that the City was actually down in sales tax compared to May of last year, adding it was most likely a timing issue, because April and May balanced each other out, with a big increase in April and a big decrease in May. Ms. Moreno then restated that year-to-date, the City was still up and that was a positive sign.

Ms. Moreno then addressed the Enterprise Funds, stating she predicted the Gas Fund to end the fiscal year in a deficit, adding it was actually breakeven for April, but went into the negative in May. Ms. Moreno stated the City is no longer in those winter months when revenue is generated to cover expenses for the Gas Fund, adding it was a very mild winter and the City didn't see those higher revenues needed to get through the rest of the year. Ms. Moreno then stated Water, Wastewater and Sanitation are all operating in the black and doing well, even through May. Ms. Moreno then stated the Golf Course was down for the month of April and for the month of May, adding the restaurant had a significant increase for April compared to April of last year, but was still down about \$1,000 and the course was down \$17,000 for the month. Ms. Moreno then spoke about May's numbers, stating the Golf Course's overall net position was down \$42,000, with \$10,000 being attributed to the restaurant and \$32,000 being contributed to operations and maintenance. Councilmember Brooks asked how that compared to last year with Ms. Moreno stating last year, overall the Golf Course lost \$15,000, but it also had a donation of \$25,000, so it's actually very comparable to last year.

Ms. Moreno then reviewed sales tax stating the Council could see there was a strong increase for the month of April, again noting there was a strong decrease for May, which offset each other. Ms. Moreno then stated she is more interested in the year-to-date figures, adding the numbers tend to be all over the place, but the City is up year-to-date. Ms. Moreno then stated Bed Tax is up as well, adding there is a trend line and the Council can see it has been up over the last 3 months. Ms. Moreno then stated Construction sales tax is the same, adding in the last couple months, the City has actually seen it come back up to where it was at the end of the previous fiscal year. Ms. Moreno then said the State sales tax collection is up, and every year it is slightly above the prior fiscal year, which is a good indicator that the economy is picking up at the State level.

Ms. Moreno then stated there were a few things she would like to mention about the month of May, adding the City is now starting to make large payments that are due, noting the 6th annual Wal-Mart payment is due and that, coupled with the timing of the year, decreased the City's unrestricted cash balance to \$961,000. Ms. Moreno noted the City's unrestricted cash position in May, 2013 was \$1.5 million, adding this is an example of why the upcoming fiscal year is such a critical year and why it is so important to stop or at least slow down the process of dipping into the reserve account, that has been done in the past. Ms. Moreno then stated while

the City's revenues were good, they were down compared to May, 2013, but she believes it is a timing issue; however, the City did have a negative fund balance for the month of May, and overall year-to-date is down \$502,000 from last year. Ms. Moreno then stated when she presents the June financials, the City will have made the bond payment and Council will see that hit the cash side, adding it won't hit the expense side until July. Ms. Moreno then stated the City did receive the payoff of a lien for about \$170,000, which will help the City's cash position, adding Council will see that in June as well.

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

**ADJOURNMENT:**

Councilmember Moncada moved to adjourn at 8:44 p.m. Seconded by Councilmember Boyle. Motion passed 7-0.

ATTEST:

\_\_\_\_\_  
Toney D. King, Sr., Mayor

\_\_\_\_\_  
Vicki L. Vivian, CMC, City Clerk