

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JUNE 25, 2012, AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Acting Mayor McGoffin called the meeting to order at 7:01 p.m. with the pledge of allegiance.

ROLL CALL:

Present were: Acting Mayor Lori McGoffin, Councilmembers Ron Brooks, David Lambert, Nick Maldonado, Chris Moncada and Al Sacco. Excused was: Mayor Toney D. King, Sr. Acting Mayor McGoffin stated Mayor King was out of town due to a family matter.

EMPLOYEE RECOGNITION: Acting Mayor McGoffin recognized Keith Spangler and Brandon Jacquez for 5 years of service each with the City of Benson.

PROCLAMATION: None.

PUBLIC HEARING: None.

CALL TO THE PUBLIC:

J.T. Moffett addressed Council regarding the appointment of a new City attorney, reminding Council they voted 6-0 not to renew Mr. Masee's contract and to put an RFP out to find a new City attorney. Mr. Moffett stated now we find Mr. Masee in the running as one of the top picks to be our City attorney again and the voters would like to know how that came to be when the Council voted 6-0 to replace him. Mr. Moffett then addressed Council concerning the Chamber's request, stating the audacity of the request defies words since the Chamber still owes taxpayers \$8,400 they took under false pretenses to put on an event that never transpired except on paper, adding that is stealing from the good people of Benson and that money needs to be returned. Mr. Moffett then stated the best thing for the Chamber would be to stop asking for money and offer their services and support to the Tourism Department at no charge, while at the same time, work on doing fund raisers to help support the Chamber. Mr. Moffett then stated he is certain Mr. Jay Tomerlin of the San Pedro Golf Course would be more than willing and able to help the Chamber put on a successful golf outing using his knowledge and connections in the golfing world as he has done for every single fund raiser held at San Pedro. Mr. Moffett then addressed the Council concerning building code enforcement stating the Planning & Zoning Director, Luis Garcia, first ignores the violations on Mrs. Alexander's property created by Del Thola for almost a year and then after Mr. Thola took the property over legally, gives him 6 more months to clean up the mess that has been there over a year. Mr. Moffett then stated next a widow in town does a remodel inside her home without a permit and Mr. Garcia tells her not to worry about a permit or an inspection. Mr. Moffett then stated next Mr. Garcia harasses a young couple who purchased a home in the Heights, adding Mr. Garcia decided the windows in the bedroom need to be brought up to code even though no work was done on them and now the couple has been barred from moving into their completed home. Mr. Moffett asked the Council to please listen carefully to Layne East when he addresses them. Mr. Moffett then stated Mr. Garcia went into Postal Annex and cites fire code violations while ignoring other businesses in much worse condition, adding the owners of Postal Annex run one of the cleanest, most well-organized businesses in town. Mr. Moffett then stated the petty harassment and minor code violations continue against Stagecoach Trails Manufactured Home Park, adding to the lawsuit against the City and now it has gone to the Supreme Court, asking how much that will cost the taxpayers of Benson. Mr. Moffett then stated all of this is building up to more citizens and businesses gathering forces to file a class-action lawsuit against the City.

Fire Chief Keith Spangler stated he was coming before Council to let everyone know he has postponed fireworks due to the current fire conditions, adding with the lack of rain and tinder box fire fuels we have, we would not be able to safely conduct the fireworks on the 4th of July.

Layne East addressed the Council regarding the remodeling he has done on a home he purchased in the City. Mr. East gave the Council a handout with information on the project and then asked the City Council and management to do what is right by cancelling his permit and refunding the \$99.00 permit fee he paid. Mr. East then stated Council needs to prove to him and the City that they were not about the money and the power the Building Department imposes on the City, because if they don't they will automatically prove the City of Benson does not support improving home efficiency and will force the people of this City to continue working without permits, lying and cheating the system because that is exactly what the community has become accustomed to. Mr. East's comments will be retained with the Council packet.

Kevin Dirksen stated he believes 75% of the City staff in attendance do not live within the City limits, and thinks overall, our City Hall employs 80-90% of people who do not live within the City limits. Mr. Dirksen then asked why are all these people making our rules and enforcing our rules and why are we spending all our tax dollars sending it straight out to other communities, adding this is the point he would like to make to Council.

Paul Lotsof, Manager of CAVEFM, stated a few months ago he brought attention to a problem his company is having with the zoning regulations and building codes. Mr. Lotsof stated he would like to replace a 1964 mobile home with a newer one, but can't because Staff is taking the position that the minute they move out the old trailer, they lose all of their non-conforming use privileges and every zoning change and building code change that's been enacted in the last 30 years kicks in. Mr. Lotsof then stated the result is the project becomes cost prohibitive. Mr. Lotsof then stated two weeks ago Anthony Edmiston brought a similar problem to Council's attention, to renovate a house he owns on 6th Street, but can't do it because Staff is taking the position that if he fixes up the house, he must totally rebuild it from the ground up. Mr. Lotsof then stated a few minutes ago, Council heard another comment from Mr. East about problems he's having about just replacing a window, adding what we seem to be headed for is a tenant complaining to his landlord that his roof leaks. The landlord responds that he'd like to fix the roof, but can't afford to replace the plumbing and all the electrical wiring or risk being fined or even jailed, so the roof must continue to leak. Mr. Lotsof then stated the theory behind all this seems that by doing away with non-conforming uses, the City will force property owners to rebuild and we'll end up with a town that is brand new, adding this might work fine in a rich community like Beverly Hills where everyone is filthy rich, but Benson is a far cry from a rich town of property owners who all have money to burn. Mr. Lotsof then stated even if the typical property owner in Benson were rich, in most cases it would not pay to invest big bucks to rebuild from the ground up and if common sense is to be ruled out, he thinks the City is going to see people walking away from their property, rather than rebuilding it. Mr. Lotsof then stated in time Benson will lose population and will begin to resemble a ghost town, however, realistically, that's not going to happen because in another 9 months, there will be an election and the democratic process will solve the problem. Mr. Lotsof then stated those Councilmembers who believe in phasing out non-conforming uses will find themselves phased out by the voters and the new City Council will have no problem figuring out what to do with Mr. Garcia, but it doesn't need to get to that point. Mr. Lotsof then stated many years ago, he took a course that included a unit on solving problems where he learned the first step in solving a problem is to admit there is a problem and the second step is to sit down and discuss possible solutions to the problem. Mr. Lotsof then stated before any discussion can take place, someone in a position of authority must be willing to put the matter on a future agenda and that is what he is suggesting, adding the problem is not going to dry up and blow away and is only going to continue to get worse if Council continues to do nothing. Mr. Lotsof then stated some of the most trivial items end up on Council agendas, using a presentation by Cox Communications as an example, and asked if the rights of property owners are worth a few minutes of their time, asking again for someone to be willing to place the item of non-conforming uses on a future agenda. Mr. Lotsof then thanked Council for their consideration.

CITY MANAGER REPORT:

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

- July 2, 2012 – Economic Development Subcommittee, 5:15 p.m., City Hall
- July 3, 2012 – Planning & Zoning Commission, 7:00 p.m., City Hall
- July 9, 2012 – City Council Meeting, 7:00 p.m., City Hall
- July 10, 2012 – Library Advisory Board, 4:00 p.m., Library
- July 21, 2012 – Historic Preservation Commission, 9:00 a.m., City Hall
- July 23, 2012 – City Council Meeting, 7:00 p.m., City Hall
- July 24, 2012 – Community Watershed Alliance, 6:30 p.m., City Hall

- July 4, 2012 – Holiday – Offices Closed
- July 4, 2012 – City of Benson 4th of July Festivities at Lions Park. Parade begins at 9:00 a.m. followed by activities at the park beginning at 10:00 a.m. See www.bensonvisitorcenter.com for a complete schedule of events.

Mr. Nichols stated all the activities except the fireworks would still take place, adding many sponsors came forward to support the fireworks, which the City should be able to schedule for a later date. Mr. Nichols then stated due to the fire danger, a temporary ban on the use of consumer fireworks is also in place.

Mr. Nichols then reminded those present of the continuing work on the Interstate 10/State Route 90 Traffic Interchange project, adding up-to-date information can be found at www.azdot.gov.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the June 4, 2012 12:00 p.m. Special Meeting
- 1b. Minutes of the June 4, 2012 7:00 p.m. Special Meeting
- 1c. Reappointment of Allen Archer to the Board of Adjustment
- 1d. Reappointment of Travis Weddle to the Board of Adjustment
- 1e. Appointment of Gustavo Figueroa to the Benson Historic Preservation Commission
- 1f. Reappointment of Cathy Abernathy to the Benson Library Advisory Board
- 1g. Reappointment of Ina Jones to the Benson Library Advisory Board
- 1h. Reappointment of Raymond Taylor to the Benson Library Advisory Board
- 1i. Invoices processed for the period from June 1, 2012 through June 13, 2012
- 1j. Resolution 33-2012 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to apply for a Department of Homeland Security Grant through FEMA's Assistance to Firefighters Program to fund the purchase of a new Engine Company

Councilmember Brooks stated he would like to remove item 1a. Councilmember Sacco then moved to approve the Consent Agenda without item 1a. Seconded by Councilmember Brooks. Motion passed 6-0.

Consent Agenda – Items Removed:

- 1a. Minutes of the June 4, 2012 12:00 p.m. Special Meeting

Councilmember Brooks stated he did not attend the entire June 4, 2012 Special Meeting. Councilmember Moncada then moved to approve Consent Agenda Item 1a. Seconded by Councilmember Lambert. Motion passed 5-0 with Councilmember Brooks abstaining.

2. Chamber of Commerce Request for funding to host Butterfield Stage Days

Chamber of Commerce Acting Board President Mike Hug addressed Council stating Butterfield Stage Days has historically been put on the Chamber adding the City of Benson is a big factor in making the

event a success. Mr. Hug stated the 3-day event, which celebrates the fact that Benson was on the Butterfield Stage route and was an important rail stop on the Southern Pacific, is free to the public. Mr. Hug then stated the event brings people into Benson, helps the hospitality industry and brings tax dollars to the City of Benson from the vendors who participate. Mr. Hug stated the feedback received was last year was the best Butterfield Stage Days in a long time, adding volunteers spent many hours making it a grand success and the Chamber would like to build upon that success again. Mr. Hug then stated the City budgeted \$10,000 for the event last year, but the Chamber spent between \$12,000 and \$16,000 for the costs. Mr. Hug then stated he and Mr. Bryan, of the Chamber, had a preliminary meeting with City Manager Glenn Nichols and 2 City Councilmembers to discuss ways of implementing the event and what might be the best way of doing that. Mr. Hug then stated the Chamber would like to submit 2 proposals for the Council to review and discuss, adding the Chamber hopes one of the proposals or a combination of both will meet with the City's satisfaction and approval. The proposals were given to Council and will be retained with the Council packet. Both proposals included the Chamber receiving a management fee and the City paying expenses up to the allocated amount in the City budget. Differences in the proposals included invoices being paid directly by the City versus money (draws) being distributed to the Chamber for invoices, money collected from vendors and sponsors in excess of the budget cap being kept by the Chamber instead of the amount of money collected from vendors and sponsors being used to reduce the amount of money (draws) distributed to the Chamber with any money over the draw amounts being returned to the City, as well as the hiring of an event planner needing Council approval or not and the submission of a participation vendor list to the City or no submission of the list.

Acting Mayor McGoffin then opened the item for discussion. Councilmember Brooks stated he would be abstaining from the discussion and action. Councilmember Lambert suggested tabling the item since the final budget had not been passed yet, with Acting Mayor McGoffin stating something needed to be decided since the time for planning the event is already being cut short, adding the Bluegrass event could have been better had Council committed to the event earlier, adding she would prefer to come to a decision tonight. Councilmember Lambert then stated with the current information the Council has, he would rather the City sponsor the event. Councilmember Moncada agreed, stating he thinks the City, through the Recreation and Tourism Departments, should host the event, adding he thinks they did a great job with Bluegrass and he thinks they will do a great job with Butterfield. Councilmember Maldonado stated he felt the same way, and that Council needed to decide so Staff would have the time needed for the event. Councilmember Sacco stated he agreed and thought the City should host the event this year. Councilmember Moncada stated he would like to direct the City Manager to present a plan for the City to host the Butterfield event. Acting Mayor McGoffin stated she appreciates the Chamber's willingness to work with the City, she thinks it is a good start, adding when some things are cleaned up, the partnership may go further, stating again, she appreciates the Chamber and them meeting the City in the middle. Councilmember Brooks asked if a motion was needed on the Chamber's request with the answer being the item would simply die from the lack of a motion.

3. **Resolution 30-2012 of the Mayor and Council of the City of Benson, Arizona, approving a Final Budget for Fiscal Year 2012-2013**

Finance Director Jim Cox stated the Council had approved the Tentative Budget on June 4, which was published in the local paper on June 6 and June 13, with the public hearing being held on June 21. Mr. Cox then stated the recommendation before Council is to approve the \$18,893,324.00 budget for the Fiscal Year 2012-2013. Acting Mayor McGoffin questioned the following two Council items and if they were addressed in the Tentative Budget with City Manager Glenn Nichols stating the proposed increases were included in the Tentative Budget. Councilmember Lambert asked Mr. Cox how many members of the public attended the public hearing with Mr. Cox stating 1 person in addition to Council and Staff was present at the hearing, and he chose not to speak. Councilmember Moncada then moved to approve Resolution 30-2012. Seconded by Councilmember Lambert. Motion passed 6-0. Mr. Cox then stated he would like to note this is the sixth consecutive year the City of Benson has enacted their budget for the new fiscal year prior to it starting, adding few cities in the State of Arizona can claim this and congratulated Council on the accomplishment.

4. **Amendment to the contract for Prosecutorial Services to reflect any cost of living salary adjustments**

granted to other City Employees

City Manager Glenn Nichols stated this item and the following item are proposed amendments to the contract for prosecutorial services and magistrate services that would approve an increase equal to the same raise any other employee would get during that period of time. Councilmember Brooks asked if the requests are normally handled at the time the contracts renew with Mr. Nichols stating both contracts are longer term contracts and the requests were brought forward as part of the budget process. Councilmember Brooks asked if these services are normally put out to bid with Mr. Nichols stating the contracts are negotiated at the time of renewal; however, the magistrate contract is with the individual who is elected to the Justice of Peace office, adding that contract has been in place with no changes or increases since 2007. Councilmember Moncada moved to approve the amendment to the contract for Prosecutorial Services to reflect any cost of living salary adjustments granted to other City employees. Seconded by Councilmember Maldonado. Motion passed 6-0.

5. **Amendment to the contract for Magistrate Services to reflect any cost of living salary adjustments granted to other City Employees**

City Manager Glenn Nichols stated this item is the same as the previous item and was requested of Council during the budget process. Councilmember Lambert moved to approve the amendment to the contract for Magistrate Services to reflect any cost of living salary adjustments granted to other City employees. Seconded by Councilmember Brooks. Motion passed 6-0.

6. **Health Insurance contract with Health Net for the Employee Benefits for Fiscal Year 2012-2013**

Councilmember Moncada asked if there had been a lot of interest in the HMO from employees with City Manager Glenn Nichols stating quite a few employees had chosen the HMO. Acting Mayor McGoffin stated she felt the City was able to offer a good benefits package this year with many extras, such as dental, and vision, and commended the people who put it together this year. Councilmember Moncada then moved to approve the health insurance contract with Health Net for the Employee benefits for Fiscal Year 2012-2013. Seconded by Councilmember Lambert. Motion passed 6-0.

7. **Resolution 31-2012 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the expenditure of public funds, in an amount not to exceed \$176,055.00 to allow Cochise County ("County") to proceed with the construction of improvements to City streets pursuant to the January 25, 2005, Intergovernmental Agreement with the County**

City Manager Glenn Nichols stated this item is a continuation of our street improvement program where we've hired Cochise County, through the Intergovernmental Agreement (IGA), to do the work, adding they also use Department of Corrections (DOC) labor. Mr. Nichols then stated the City has saved quite a bit by utilizing the IGA. Councilmember Brooks then stated he would like to read the list of the streets that will be patched and chip sealed so the public knows what is being done. The streets are: Foothills Road, Duane Street, High Street, Bonita Street, Cactus Street, Crestview, Hillside Lane, Clearview, Cottage Grove, Silverwood Lane, Seneca Circle, Osage Drive, Osage Circle, La Mesa Circle, La Mesa Drive, La Questa and Arledon Street. Councilmember Moncada then moved to approve Resolution 31-2012. Seconded by Councilmember Sacco. Motion passed 6-0.

8. **Resolution 32-2012 of the Mayor and Council of the City of Benson, Arizona, authorizing the City to enter into an Agreement with Progressive Roofing for the replacement of the Benson Library Roof in an amount not to exceed \$41,366**

City Manager Glenn Nichols stated this item is one of the Capital Improvement Projects, PW 11-05, in the budget, adding the roof on the older part of the library will be replaced and the annex to the library will be re-coated. Mr. Nichols then stated by utilizing the City of Tucson's procurement contract, the City was able to get the lowest price for the project. Councilmember Brooks asked if the project went out to bid with Mr. Nichols stating it did not because when the City has the opportunity to utilize the State contract or the City of Tucson's procurement contract, we can take advantage of the lowest prices for projects.

Councilmember Brooks then stated there are a lot of local and county contractors who could use the money and although he didn't know if they could compete with the price for these types of projects, in the future, he would like to see more open bids to contractors. Councilmember Moncada then moved to approve Resolution 32-2012. Seconded by Councilmember Sacco. Motion passed 6-0.

9. **Authorization of Stantec Consulting, Inc. under the City of Benson On-call Engineering Contract to conduct design services for the Benson Municipal Airport Backup Generator Project in the amount of \$30,000**

City Manager Glenn Nichols stated this project utilizes Stantec Engineering to complete the design of a backup generator for the Benson Municipal Airport, and includes the consulting work to determine what size generator will be needed to allow key airport systems to stay online during power outages. Mr. Nichols then stated the project is a FAA Airport Improvement Grant, AIP 16 Funded project and the grant funding for the project is 95% FAA leaving a 5% cost to the City of \$1,500. Councilmember Moncada asked about a grant for the generator with Mr. Nichols stating the project is to figure out exactly what is needed to then be able to apply for a grant for the generator. Councilmember Moncada then moved to approve the authorization of Stantec Consulting, Inc. under the City of Benson On-call Engineering contract to conduct design services for the Benson Municipal Airport Backup Generator Project in the amount of \$30,000. Seconded by Councilmember Lambert. Motion passed 6-0.

10. **Fireworks display contract between Fireworks Productions of Arizona, Ltd. and the City of Benson**

City Manager Glenn Nichols stated the proposed fireworks display contract is with Fireworks Productions of Arizona, the company that has provided this service to the City over the last few years and has done an excellent job each year. Mr. Nichols then stated when the fireworks have been cancelled in the past, due to weather, Fireworks Productions of Arizona has agreed to display the fireworks at a later date and will do so again this year. Mr. Nichols then stated part of the funding for the fireworks comes from the donations collected by the 4th of July Committee from many businesses and community members, adding an addendum to the contract may be presented at a later date for the additional fireworks to be purchased with those donations. Councilmember Lambert moved to approve the fireworks display contract between Fireworks Productions of Arizona, Ltd. and the City of Benson. Seconded by Councilmember Sacco. Motion passed 6-0.

11. **Review of City Finances with emphasis on the financial results for the months of April and May, 2012, and the eleven months ended May 31, 2012, and the City's financial position at May 31, 2012, and discussion of sales tax revenues and projected future net revenues**

Finance Director Jim Cox gave a brief overview of the City finances for months of April and May 2012. Mr. Cox began with Citywide financial highlights, stating the City's cash position is staying quite stable at \$2.4 million and he expects it to be \$2.1 million in 6 days due to the two major expenditures of the annual bond payment and the annual payment to Wal-Mart, totaling about \$600,000. Mr. Cox stated fund balances are up \$155,000 from the end of March and up \$72,000 year-to-date and are projected to be right at breakeven at the end of the year, adding what this means is the City has not increased or decreased its net asset position for the year and it's been a very stable year. Mr. Cox then stated trend wise, finances really improved during the second half of the fiscal year, but the overall performance he would have to say is slightly behind the past 3 years. Mr. Cox then stated revenues for April and May were \$1.8 million, decreasing \$237,000 compared to the previous fiscal year, with the year-to-date revenues being \$9.6 million, which is only down \$27,000 compared to last year. Mr. Cox then addressed personnel costs, which were \$723,000 for April and May, up \$17,000 compared to last year, with the year-to-date cost of \$4.4 million, up \$88,000 due to a full year of golf course and transit operations in 2011-2012, which we didn't have in the prior year. Mr. Cox then stated other costs were \$912,000 for April and May, being up \$169,000 compared to last year and year-to-date other costs were \$5.07 million, up \$295,000 compared to last year. Mr. Cox then moved on to the General Fund, stating revenues were down \$1.04 million for April and May, but were up \$4.3 million year-to-date. Mr. Cox said State sales tax revenues to the City increased by \$9,000 and State Revenue Sharing was down \$28,000 and noted on the expenditures side, personnel costs are \$2.8 million year-to-date which is down \$102,000 from last year. Other costs were \$1.4 million

year-to-date which is up \$439,000, largely due to the fire trucks we added into the General Fund this year. Mr. Cox then stated fund balances increased \$181,000 for the months of April and May and were up \$161,000 year-to-date, adding the General Fund, for the first time in the last couple of years, will actually finish positive compared to prior years. Mr. Cox then addressed the Enterprise Funds, stating the Gas Fund, as expected, was down \$20,000 for the months of April and May, and down \$11,000 year-to-date, but that is with consideration to the addition of \$62,000 in capital improvements to the gas system. Mr. Cox then stated the Water Fund is up \$28,000 for the months of April and May, and up \$49,000 year-to-date, which includes \$85,000 worth of new water meters. Mr. Cox then stated the Wastewater Fund is up \$12,000 for the months of April and May and up \$114,000 year-to-date, but that excludes the debt services, which is a fairly large number. Acting Mayor McGoffin remarked that it was unusual for the Gas Fund to lose money with the other enterprise funds making money since it used to be the other way around with Mr. Cox stating the expansion of our systems into Sue Juan Water a couple of years ago, and with the capital improvements now being completed in that system, it has thrown us over the top on cash flow which really helps that area. Mr. Cox then stated we would be looking at changing gas providers and should see an improvement in the Gas Fund after that. Councilmember Brooks stated the Water Fund has always done well with Acting Mayor McGoffin stating when she first became a Councilmember, the Water Fund had to be supplemented by the Gas Fund, but with the rate study Council performed and implemented, it has done well since, adding it is also due to the replacement of older water meters, which reduces the loss ratio. Mr. Cox then stated the golf course showed small losses for April and May and is down \$79,000 year-to-date, adding it would have been breakeven, had it not been for the fungus on the course last year, which probably cost \$100,000. Mr. Cox then stated Director of Golf Jay Tomerlin is trying to reduce costs, increase efficiencies and generate more revenues, which is the real key, adding the outside operation is running as well as it possibly could run, but the inside operation needs a little more tweaking, adding he thinks all the right moves are being made and Mr. Tomerlin knows its his job to get us as close as he can to total breakeven when we stop being subsidized next year. Mr. Cox then stated the key is going to be an increase in revenues and the logical way to increase revenues is to experience growth, adding if one of the major projects looking at the City right now would come through, it would throw us over the hump immediately. Councilmember Maldonado stated he knows golf is an expensive sport and people aren't playing it like they used to with Mr. Cox stating the golfing population has dropped off and to keep revenues up we are going to need a lot of golfing programs, adding Mr. Tomerlin knows this and has several going already. Mr. Cox then stated again, growth is the absolute answer, with good management being the stop gap that helps lessen the spread, but it's going to be hard to breakeven with nothing else happening from the outside. Mr. Tomerlin then addressed Council stating when the City doesn't get subsidized next year, the Council may need to look at the restaurant, adding he has been talking to the City of Tucson and they have now leased out all their restaurant operations. Councilmember Brooks asked about the water distribution problem, with Mr. Tomerlin stating it will be fixed tomorrow. Mr. Cox then reviewed sales tax, stating general fund sales tax revenues are down, bed tax collections continue to dip and construction sales tax is headed downward and unless we have some construction, will go quite low in the next few months. Mr. Cox then summarized his presentation stating the State year-to-date tax collections are up 2.6% to the positive, but City tax collections are down 1.3%, adding 3 months ago, they were down 3%, so they are moving in the right direction, but are still negative compared to last year and will probably end the year slightly negative compared to last year. Mr. Cox then stated the good news is the General Fund is projected to breakeven and he thinks may be a little over at the end of the year, adding overall, the City's financial performance is slightly below recent years, but not at a concerning level. Mr. Cox then stated the Fiscal Year 2012-2013 budget has been a real challenge, but he thinks we have a wonderful working budget and thanked Council for their work.

EXECUTIVE SESSION: As per A.R.S. §38-431.03(A)(1), Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of public officer, appointee or employee of any public body. The Council will discuss City Attorney interviews.

Councilmember Moncada moved to enter into Executive Session with the Acting Mayor and Council, City Manager and the City Clerk at 8:07 p.m. Seconded by Councilmember Maldonado. Motion passed 6-0.

Council reconvened at 8:30 p.m.

12. **Review, discussion and possible action regarding the selection of a proposed candidate for City Attorney**

Acting Mayor McGoffin opened the item for discussion. Councilmember Brooks moved to select Chris Wencker for the City Attorney. Seconded by Councilmember Sacco. Motion failed 3-3 with Councilmembers Lambert, Maldonado and Moncada voting nay. Acting Mayor McGoffin then asked if there was any discussion, comments or another motion. Councilmember Maldonado stated he would like the public to know the candidates' fees ranged from \$140.00 per hour with no minimum to between \$5,000 and \$8,000 per month based on 40 hours per month, adding some of the attorneys charged additional fees or rates for litigation, paralegals, travel, lodging, meals and mileage. Councilmember Maldonado then stated one of the things mentioned was the importance of continuity. Councilmember Sacco stated he did not agree concerning continuity and the selection of the attorney would be a tough decision. Councilmember Sacco then stated he has been involved from the beginning, he was on the selection committee and has had more contact with these than any other Councilmember on the Council, adding he thinks he has a pretty good understanding of the candidates and the knowledge they have of municipal law. Councilmember Sacco then stated his choice would be Chris Wencker, because Mr. Wencker has a lot of municipal experience, is familiar with the City of Benson, worked for the Benavidez Law firm when they provided legal services as the attorney for the City of Benson and he's well acquainted with municipal law. Councilmember Brooks then stated the rates discussed previously were based on 40 hours per month with additional fees to be paid if the attorney had to go over that time and if the City has a good attorney, we won't need litigation, adding if you have a good contractor who does a good job, you don't pay for extras. Councilmember Brooks then stated having a good City Attorney for the City Council is a moral center for Council, adding the Council relies on the attorney for everything, including legal advice concerning what Council can and cannot do and it is very important to have someone who knows what they are doing. Councilmember Brooks then stated he is not extremely happy with all the candidates they have to select from, but can say that he was impressed with Chris Wencker and with Kellie Peterson and Brandon Kavanagh. Councilmember Brooks then stated he thinks the public is going to expect Council to come up with something good and he thinks Council should be careful in the decision. Councilmember Lambert then stated he would like the public to know the City had 13 attorneys respond to the RFP, but 1 withdrew before the initial interviews and 1 cancelled his interview, leaving 11 candidates and Council was now looking at the 5 candidates recommended by the selection committee. Councilmember Lambert then stated he would like to clarify one other issue that was brought up earlier in the meeting at the Call to the Public, which was that Council voted 6-0 to not renew the contract with our current City Attorney, adding that was false, the actual vote was to advertise an RFP to see the responses and now Council is addressing this item as a result of that RFP. Acting Mayor McGoffin asked if there were any other comments. Councilmember Moncada then moved to approve Michael J. Masee for the position of the City Attorney. Seconded by Councilmember Lambert. Motion passed 4-2 with Councilmembers Brooks and Sacco voting nay.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Moncada moved to adjourn at 8:40 p.m. Seconded by Councilmember Maldonado. Motion passed 5-1 with Councilmember Lambert voting nay.

ATTEST:

Vicki L. Vivian, CMC, City Clerk

Toney D. King, Sr., Mayor