

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JULY 22, 2013, 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 Allegiance. Mayor King then invited Dr. Eileen Littrel of the Baha'i Faith to offer the invocation.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Al Sacco, Councilmembers Ron Brooks, Jeff Cook, Brian Crafts, Chris Moncada and Peter Wangsness.

EMPLOYEE RECOGNITION: None

PROCLAMATION: None

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Angela Roberts stated she moved to Benson in 2010 and that her neighborhood is overrun with drugs and criminal activity both day and night. Ms. Roberts stated she has spoken with her neighbors and they are all of the opinion that neither the City of Benson nor the Police Department care about the problems in her neighborhood. Ms. Roberts stated people can walk down her street and use, sell and transfer drugs without fear of Police involvement. Ms. Roberts then stated these problems really need to be addressed adding she can't do it by herself. Ms. Roberts stated this is her biggest concern right now. Ms. Roberts stated she volunteers with Animal Control in Benson and she is concerned with the amount of work that is put on the one Animal Control Officer, who has not had time off in months. Ms. Roberts then stated the Animal Control department is important and she is concerned the Animal Control Officer may leave and this also needs to be addressed.

Kathy Suagee asked to give her five minutes to Dianne Tipton. Mayor King stated he would allow it.

Lori McGoffin spoke regarding the cancelled laser light show; she was not sure if it was going to be rescheduled or if the City was going to get money back. Ms. McGoffin then stated she had an idea for Butterfield Stage Days, adding there is a Home Coming football game that weekend which includes a tailgate party and she would like to have the laser show at the game and the scheduled fireworks at end of Butterfield Days. Ms. McGoffin then stated she has spoken with Athletic Director James Driggers, at the school, adding if we keep the laser show less than 15 minutes it could be done at half-time. Ms. McGoffin stated people could then see the show and know if it is what they would want at the 4th of July next year. Ms. McGoffin then stated she would like to keep her seat on the Economic Development SubCommittee because she enjoys the committee. Ms. McGoffin stated she would also like to stay on the City Manager Recommendation Committee as well because she has experience and has served on interview committees previously.

J.T. Moffett stated he would like to speak about items 6 and 7 on the agenda. Mr. Moffett stated two weeks ago Council voted to give Mr. Masee his 60- day notice and to terminate his contract now would cost the City an extra \$10,000 for severance pay. Mr. Moffett then stated Mayor King and Councilmembers Crafts and Wangsness would be going back on their campaign promises of not wasting taxpayers' money if they

voted to terminate Mr. Masee's contract tonight. Mr. Moffett stated as it stands the City will only have to pay Mr. Masee for the hours that he works during the 60 days rather than for a full 80 hours just so Councilmember Brooks can satisfy his personal vendetta against Mike Masee. Mr. Moffett then asked the Council to think before they voted tonight. Mr. Moffett stated he has received criticism about his stance given recent events, adding when he spoke out against former Councilmembers and Staff he was the Brookies' hero. Mr. Moffett then stated the same people who criticize him today applauded his style and stance when it fit their agenda, adding Ron Brooks, Dianne Tipton and Kathy Suagee were a few of those people. Mr. Moffett then stated Councilmember Wangsness applauded the Mayor when he cancelled meetings that were on the Chapter 7 Codes because Councilmember Wangsness is against the Chapter 7 Codes; but now that the Mayor is not doing what he wants, Councilmember Wangsness says it is illegal to cancel meetings and cries foul and tries to interpret the law. Mr. Moffett then stated Councilmember Wangsness and Councilmember Brooks failed to give the people of Benson much credit, adding the people see the hypocrisy in their actions and in Dianne Tipton's sudden desire for peace and togetherness. Mr. Moffett stated the Brookies criticize the very thing people like about him; he tells it like it is no matter who is sitting up there and he does not care who thinks he is wrong. Mr. Moffett then stated perhaps now people will see he is not for or against any person, but is the principal, adding he is against wasteful spending by this Council or by City Hall. Mr. Moffett stated he is not against anyone at City Hall; he has never had an altercation or been disrespectful to anyone at City Hall, adding he finds Vicki Vivian, Danna Judd, Melissa Quiroz, Michelle Johnson, Sheila Perkins and everyone else to be courteous, respectful and most cooperative. Mr. Moffett stated maybe the Brookies need to show some respect and they will be able to say the same. Mr. Moffett then stated the reason he has separated himself from the Brookies is because their agenda is personal and revengeful, which is painfully obvious to anyone outside their group. Mr. Moffett stated he is fed up with the abuse the City employees have suffered at the hands of the Brookies and it is time someone spoke out and supported these employees and he will continue to do so. Mr. Moffett then stated there will be decisions made regarding board and committee appointments adding Councilmember Brooks is currently the Chairman of the Board of Adjustments (BOA). Mr. Moffett stated the BOA makes crucial decisions over contractors and building codes adding Councilmember Brooks lost his contractor's license and has an outstanding \$50,000 judgment against him for unscrupulous business practices. Mr. Moffett then stated he provided a copy of the judgment from the court to all of Council. Mr. Moffett then asked as a matter of principal, if a person with such a track record should be presiding over such a board and asked if the Council should be looking at other candidates with a clean record to do the job. Mr. Moffett stated Councilmember Brooks and Ms. Tipton have been crying "let's work together" and the Council should find a candidate that can do that, adding the Council can't give them Councilmember Brooks and expect them to work together. Mr. Moffett stated that when Councilmember Brooks walks into the Zoning Department, it is like someone lit a fuse on a keg of dynamite and everyone is cringing waiting for it to blow; he is like the school bully and needs to be stood up to. Mr. Moffett stated Councilmember Brooks is like the Wizard of Oz; he has been telling people that he is great and powerful while he is putting fear into people with threats and it is time to step out from behind the curtain. Mr. Moffett then stated it is time for Councilmember Brooks to step down from boards and committees and from Council.

Councilmember Wangsness stated, in reference to cancelling meetings, it was only regularly scheduled meetings which is in the City Code and the code says nothing about cancelling special meetings.

Councilmember Brooks stated he would like to respond to Mr. Moffett. Mayor King stated he believes they need to finish the Call to the Public before there is a response made. Councilmember Brooks said no, he can respond immediately. City Attorney Michael Masee stated that the Mayor is presiding over the meeting he can recognize Councilmember Brooks at an appropriate time adding that Councilmember Brooks is correct in stating he could respond immediately. Vice Mayor Sacco asked why he hasn't been able to respond until now and asked if the law has changed. Mr. Masee stated the laws changed quite a few years ago and Vice Mayor Sacco has always had the opportunity to speak. Councilmember Brooks stated he has seen Mr. Moffett in this community for about a year and a half and has seen him attack every member on Council. Mayor King asked Mr. Masee for guidance in what may be said in a response. Mr. Masee read the statute aloud to the Mayor and the Mayor stated there will be order in the meeting.

Councilmember Brooks stated he has seen Mr. Moffett blast every member on the past and current Council and Mr. Cox. Councilmember Brooks then stated as far as digging up dirt on him and passing out the court order, Mr. Moffett has no idea what the case was about. Councilmember Brooks stated his license expired and he has since gotten it back adding he has been paying on this judgment for 6 years now and it has been hard on him and for Mr. Moffett to come in here and attack him does not get this community any further ahead. Councilmember Brooks stated if Mr. Moffett has anything to say to him, he would like Mr. Moffett to just come and talk to him personally.

Dianne Tipton spoke on the issue of the City Attorney, stating Council should be aware by now that she feels the City lost again in court on Friday. Ms. Tipton stated she believes that all courts have decided in favor of Stagecoach Trails so far and she believes that Mr. Masee has been wrong about everything from the beginning and for 4 years, the former Council, the City Manager and the City Attorney have exploited Stagecoach Trails, her son Jay Kendrick and herself for no legal reason whatsoever at a combined cost close to \$1 million. Ms. Tipton then stated Council has allowed it to continue for 4 years and now they have the opportunity to stop any further exploitation of any citizen in this community by protecting them from Mr. Masee, adding what is another \$8,000 at this point, as long as the \$8,000 is used as insurance that there will be no more nonsense and poor legal decisions. Ms. Tipton stated the City has failed to protect her and her family from the gross mistreatment of Mr. Masee. Ms. Tipton then gave the analogy if you purchased a rotisserie chicken and took a bite to find it was rotten, you would throw it away and probably want a refund; however if you keep the rotten chicken and keep eating it, it is your fault and you deserve what you get. Ms. Tipton likened this analogy to the City's relationship with Mr. Masee and said throw out the chicken and go after the money that should be returned to the taxpayers. Ms. Tipton then stated this analogy is about this community and responsibility and about needing good legal representation and getting it now. Ms. Tipton then told the Council to resist bad advice from Mr. Moffett and Mr. Masee; they have been hatched from same egg that came from the rotten chicken. Ms. Tipton then stated the Council should beware of those who come in the name of God and then act like the devil himself. Ms. Tipton then stated the Council shouldn't encourage behavior when someone scoffs at those who are trying to make peace; ask yourself is that what God would do and is that productive. Ms. Tipton stated that Mr. Moffett threatens to do this to those who don't agree with him. Ms. Tipton then warned the Council to stay away from false prophets. Ms. Tipton stated if they wanted to go after pastors, they could do that, and on some of the Council, they wouldn't have to go too far back and if Councilmember Brooks' accuser is so innocent that he has the right to go after anyone else and point fingers with half-truths, she would like to know about it. Ms. Tipton then stated people who live in glass houses should not throw stones. Ms. Tipton stated when people have to rely on these devices to convince people of how smart or good they are, they fail to recognize they do the opposite; they expose who they are. Ms. Tipton stated when it is diminishing and his actions begin to show how desperate he is to hang on, those who hang on to him may diminish with him. Ms. Tipton stated today is Jay Kendrick's birthday and asked Council to give him the gift of freedom from Mr. Masee. Ms. Tipton then stated Mr. Masee is contracted at \$140 per hour for 10 hours a week and is already 2 weeks into his 60 days so the Council is already into him for \$8,000, regardless. Ms. Tipton then stated what she is telling Council is to throw out the rotten chicken and get a new attorney. Ms. Tipton then stated the Council owes it to themselves and to this community to get good legal advice.

Richard Leland stated Benson is a dying city and everyone can see all of the vacancies there are, adding the vacant homes are nice homes. Mr. Leland then stated one of his neighbors is moving out because of the train noise. Mr. Leland stated the Council needs to take the bull by the horns, forget small town politics and all the bull crap that is going on. Mr. Leland then stated the City crews should pick up the trash on Monday morning, including the yard sale signs and cite people for littering.

Mayor King stated whenever someone asks for an extra five minutes or five minutes is given by another member of the public; he does not mind doing that. Mayor King then stated he does not want time to go over 10 minutes because that is getting carried away.

CITY MANAGER REPORT:

Interim City Manager Jim Cox addressed Council, giving the dates of upcoming meetings and events.

August 6, 2013	–	Planning & Zoning Meeting, 7:00 p.m., City Hall
August 12, 2013	–	City Council Worksession, 6:00 p.m., City Hall
		City Council Meeting, 7:00 p.m., City Hall
August 13, 2013	–	Library Advisory Board, 4:00 p.m., Library
August 17, 2013	–	Historic Preservation Commission, 9:00 a.m., City Hall
August 26, 2013	–	City Council Meeting, 7:00 p.m., City Hall
August 27, 2013	–	Community Watershed Alliance, 6:30 p.m., City Hall

Acting Interim City Manager Jim Cox reminded everyone to check the ADOT project closures at www.adot.gov for more information. Mr. Cox then stated there will be a Ribbon Cutting on July 23rd at the Union Street Park to celebrate the playground and there will be refreshments. Mayor King stated he will be out of town the last week of July but will be reachable by phone or email.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the July 1, 2013 Special Meeting
- 1b. Appointment of Bob Baden to the Planning & Zoning Commission
- 1c. Appointment of Debra Braatz to the Planning & Zoning Commission
- 1d. Appointment of Alwine Frega to the Benson Historic Preservation Commission
- 1e. Appointment of Peter Wangsness to the Benson Historic Preservation Commission
- 1f. Appointment of Ron Brooks to the City of Benson Economic Development Subcommittee
- 1g. Removal of Lori McGoffin from the City of Benson Economic Development Subcommittee
- 1h. Removal of David Lambert from the City Manager Recommendation Committee
- 1i. Removal of Lori McGoffin from the City Manager Recommendation Committee
- 1j. Removal of Nick Maldonado from the City Manager Recommendation Committee
- 1k. Rename the City Manager Recommendation Committee to the City Manager Selection Committee
- 1l. Invoices processed for the period from June 28, 2013 through July 12, 2013

Councilmember Moncada moved to pull off items 1f, 1g, 1h, 1i, and 1j. Councilmember Cook amended the motion to include 1k. Vice Mayor Sacco then amended the motion to include items 1e, 1f, 1k and 1l and add them to the regular agenda.

Councilmember Moncada then moved to approve items 1a, 1b, 1c and 1d. Seconded by Councilmember Brooks. Motion passed 7-0.

Consent Agenda – Items Removed:

- 1e. Appointment of Peter Wangsness to the Benson Historic Preservation Commission

Vice Mayor Sacco stated item 1e deals with the appointment of Councilmember Wangsness to the Historic Preservation Commission. Vice Mayor Sacco stated the Historic Preservation Commission has met regarding this appointment and has been discussing changing their membership from 9 members to 7 members. Councilmember Wangsness stated he was at the last meeting and the commission didn't vote to change the membership to 7 and they decided to keep it at 9. Councilmember Moncada moved to approve item 1e. Seconded by Councilmember Brooks. Motion passed 5-2 with Vice Mayor Sacco and Mayor King voting nay.

Mayor King asked Deputy City Clerk Danna Judd to read back the motion to remove items so he could verify what Vice Mayor Sacco had removed. Ms. Judd read back the motion stating Councilmember Moncada moved to pull off items 1f, 1g, 1h, 1i, and 1j, Councilmember Cook amended the motion to include 1k and Vice Mayor Sacco amended the motion to include items 1e, 1f, 1k and 1l and add them to the regular agenda.

1f. Appointment of Ron Brooks to the City of Benson Economic Development Subcommittee

Councilmember Moncada spoke regarding item 1f stating his concern is there are already 4 Councilmembers on the advisory committee and if there are 5, it is really becoming the City Council, not an advisory committee. Mayor King stated he was also concerned about having 4 Councilmembers on the committee, adding it was nothing against Councilmember Brooks, it's just that 4 is too many and the subcommittee already contains a quorum of the Council. Mayor King then stated he just can't see doing it because it doesn't make sense. Councilmember Wangsness stated he will withdraw from the committee if it would make it easier with Mayor King stating Councilmember Wangsness was not on the agenda for this meeting. City Attorney Michael Massee agreed saying Council is not able to take action on the removal of Councilmember Wangsness. Councilmember Brooks then stated he has been in Benson since 1997 and has had a business since 2001 and since that time he has had a lot of desire to see the City move forward because he knows it has a lot of potential. Councilmember Brooks added that he had started working with SAEDG about 2 years ago and has been working behind the scenes and is dedicated and had a bad experience with the EDSC, but is over that now. Councilmember Brooks then stated he has talked to a number of businesses and he is a serious action person and he doesn't think this is a committee at all; it is just people getting together talking and not doing anything. Councilmember Brooks stated he has not seen anything come from this committee in the last 3 years and that needs to change. Councilmember Brooks wants the committee to move forward and he thinks he would be a good addition to the committee. Councilmember Brooks stated the City needs money to move in and he would like to be put on the committee. Councilmember Wangsness moved to approve item 1f. Seconded by Councilmember Crafts. Motion failed 3-4 with Mayor King, Vice Mayor Sacco and Councilmembers Cook and Moncada voting nay.

1g. Removal of Lori McGoffin from the City of Benson Economic Development Subcommittee

Councilmember Moncada stated he removed item 1g from the Consent Agenda, adding he feels Lori brings good ideas to the Committee, she does a great job and brings a nice perspective to the committee. Councilmember Moncada stated he would like her to stay. Councilmember Brooks moved to remove Lori McGoffin from the Economic Development Subcommittee. Motion died for lack of second.

1h. Removal of David Lambert from the City Manager Recommendation Committee

1i. Removal of Lori McGoffin from the City Manager Recommendation Committee

1j. Removal of Nick Maldonado from the City Manager Recommendation Committee

Councilmember Moncada stated he removed items 1h, 1i, and 1j for the same reason and he would like to keep them on the committee for their knowledge in hiring City Managers and Council should keep them for their advice and recommendation. Councilmember Wangsness concurred. Mayor King concurred. Councilmember Brooks stated he thinks the committee should be just the 7 Councilmembers. Items died for lack of a motion.

1k. Rename the City Manager Recommendation Committee to the City Manager Selection Committee

Councilmember Brooks stated if the committee members are staying the same then the name needs to stay the City Manager Recommendation Committee. Councilmember Wangsness stated he didn't want to make the name change. Vice Mayor Sacco asked what the purpose of changing the name would be with Councilmember Wangsness stating there is no reason to change the name now since the members didn't

change. Vice Mayor Sacco stated he doesn't think there is a need to change the name. The item died for lack of a motion.

11. Invoices processed for the period from June 28, 2013 through July 12, 2013

Vice Mayor Sacco stated the report gives a list of invoices including an invoice for AJP Electric Inc. for an emergency generator for \$29,435 and asked how many bids the City received for it. Councilmember Moncada explained that this was done under a State bid; the State already received bids so the City does not have to solicit bids. Councilmember Brooks stated it was done under a grant and the bid was already done and Council voted on it late last year. Vice Mayor Sacco stated according to the procurement code the City has to get bids so the procurement code was not followed. Interim City Manager Jim Cox stated this procurement was handled through Stantec, which manages all construction at airport, adding Stantec did all of the bidding process and they are responsible for maintaining the legality and they have never had any questions on this. Vice Mayor Sacco emphasized the code was not followed. Mr. Cox again stated Stantec does the bidding for us and reports it to the State adding the auditors go directly to Stantec Engineering if they have any questions because the City has nothing to do with it except paying the bill. Vice Mayor Sacco asked if it was the same with Dana Kepner Company Inc. with Mr. Cox stating Dana Kepner is a \$19,000 contract to provide electronic water meter devices that are being installed throughout the City, adding the project is almost finished. Mr. Cox stated the project was started in 2006, after it was approved by Council and the City has been going according to that contract. Councilmember Moncada moved to approve item 11. Seconded by Councilmember Brooks. Motion passed 7-0.

2. **Appointments to the Benson Board of Adjustment to fill the two terms that expire July 31, 2013 (Possible appointments are renewals of Ron Brooks and Robert Barnaby and new applicants Jean Baden and Jane Scholer)**

Councilmember Brooks stated he started volunteering on the board in 2004 and he has been voted in as chairman, adding he enjoys it as it doesn't take much time because they only meet a few times a year. Councilmember Brooks then stated when a term is going to expire, the member usually gets a call, but he did not and that is why applications were taken. Councilmember Cook stated he has been looking at this and it occurs to him that a Councilmember sitting on the Board of Adjustment (BOA) or the Planning & Zoning Commission has to be a conflict of interest, since decisions will flow eventually to Council. Councilmember Cook stated he thinks by being a member, the Councilman exerts an undue influence by just being there and thinks it adds an additional layer of influence and he thinks it is wrong. Councilmember Cook then stated Jean Baden is his neighbor, adding he has not asked about any qualifications, but he does represent his neighborhood on this matter.

Councilmember Cook then moved to appoint Jean Baden and Robert Barnaby to the Board of Adjustment. Seconded by Vice Mayor Sacco. Councilmember Brooks stated he knows his job and these variances don't go to Council; they go to the Board of Adjustment, adding a lot of cities use their Council as their BOA and there is not a conflict. Councilmember Brooks stated he thinks the BOA members like how he runs the meetings and he thinks it was irregular for the Building Department to not ask him to renew his term, adding he senses some play here and does not necessarily like it. Councilmember Brooks stated again, he would like to continue on the board and repeated again there is no conflict of interest. Councilmember Wangsness stated he had made a comment in the last meeting that it would be a good idea for each committee to have at least one Councilmember appointed since the committees are representing the City. Councilmember Crafts asked if Mr. Barnaby was at the meeting and wanted to know if he wished to stay on the board with Councilmember Moncada showing him Mr. Barnaby's letter in the packet. Motion failed 3-4 with Vice Mayor Sacco, Councilmembers Brooks, Crafts and Wangsness voting nay.

Councilmember Wangsness then moved to reappoint Ron Brooks and Robert Barnaby to the Board of Adjustment. Seconded by Councilmember Crafts. Motion failed 3-4 with Mayor King, Vice Mayor Sacco, Councilmembers Cook and Moncada voting nay.

Councilmember Moncada then moved to appoint Jean Baden and Jane Scholer to the Board of Adjustment. Seconded by Councilmember Cook. Councilmember Wangsness stated the Council still has not met the candidates so he does not want them representing the City without meeting them first. Motion failed 3-4 with Vice Mayor Sacco and Councilmembers Brooks, Crafts and Wangsness voting nay.

Councilmember Moncada then moved to table the item to the next Council meeting. Seconded by Mayor King. Councilmember Brooks mentioned that the terms expire on July 31, 2013, which will leave the board with only 3 members. Councilmember Moncada asked if there were any meetings scheduled between now and the next Council meeting with Councilmember Brooks stating no. Motion passed 7-0.

3. **Discussion and possible authorization of funds from the Community Enrichment Fund and direction to Staff to promote a Tree Lighting Ceremony and Light Parade in conjunction with the San Pedro Valley Arts & Historical Society**

Mayor King stated he was a part of the parade last year and it was amazing. Councilmember Moncada read a letter from Cheryl Mammano regarding the Christmas Tree Lighting Ceremony which will be retained with the Council packet. Councilmember Moncada stated he had put this item on the agenda because last year the Christmas tree was small because it was purchased so late in the season, adding it was an amazing event with the fenced-in yard so the children would be safe. Parks and Recreation Coordinator Laura Parkin stated last year's Tree Lighting event went well and so did the Light Parade and she would like to expand them both and having more time this year will provide that opportunity. Ms. Parkin stated she will need to start looking for a tree soon, adding she agreed the venue at the museum was safe for kids and there was opportunity for arts and crafts to make holiday decorations and a kitchen for refreshments. Ms. Parkin then stated the only change to the budget is additional funds for Santa and possibly transportation for Santa for both events. Councilmember Brooks stated he wished they could get a tree out where people could see it; maybe in the center of town, adding he would like to look at moving the tree to make it more visible. Councilmember Brooks stated he had questions about what was spent last year on decorations with Ms. Parkin stated they spent about \$500 for decorations and she apologized for the figures missing off of spreadsheet. Councilmember Brooks stated since decorations were purchased last year there probably doesn't need to be any purchased for this year since we already have them. Ms. Parkin stated some ornaments were broken or faded from last year and they will be looking for a bigger tree which will take more ornaments, adding she doesn't think they will need to spend \$500 on ornaments, however she would like to have it budgeted just in case. Councilmember Brooks asked if \$150 could work with Ms. Parkin stating it would depend on the availability of ornaments. Councilmember Brooks inquired as to why the carriage for Santa doubled, as well as the fees for Santa with Ms. Parkin stating she didn't have to pay for Santa last year and she is budgeting for both the parade and the tree lighting just in case. Councilmember Brooks asked about entertainment for \$300 and what the entertainment was for last year and if it could be done for \$100. Ms. Parkin stated last year she had the school choir sing and a Buffalo Soldier to tell stories, adding she could just not have entertainment. Councilmember Brooks stated all of these numbers look a little high to him. Ms. Parkin stated last year there was no wiggle room, adding she budgets according to needs and does not use the money if she does not need to. Councilmember Cook stated one sheet says the total is \$4,475 and the other is different by \$75, asking which one she wants with Ms. Parkin stating the higher number. Mayor King stated the location was great last year and he knows some say it should be in the middle of town but families were safe at the location last year because it is fenced-in and the museum received a lot of traffic as well. Mayor King stated he thinks it is important to keep it there and asks that Council please leave it there. Mayor King moved to approve \$4,475 for the Light Parade and the Tree Lighting Ceremony. Seconded by Councilmember Moncada. Motion passed 7-0.

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

Interim City Manager Jim Cox stated this item is for the Butterfield Days fireworks, which the City has budgeted for. Mr. Cox stated the City has been contracting with Fireworks Productions of Arizona, Ltd.

since 2006 and they go out of their way to make sure we have a good show. Mr. Cox gave an example of 3 or 4 years ago when the show was rained out and all of the fireworks were ruined and they still came back during Butterfield Days and provided a show at their own expense. Mayor King commented the good thing about this is whether you are at the park or at the rodeo, you can see the fireworks show. Councilmember Brooks asked if the City would still have to pay the money if it were to rain with Mr. Cox stating according to the contract, the City would be out the \$5,000. Mr. Cox then stated he has faith we will get a show based on the historical relationship the City has with Fire Productions of Arizona. Councilmember Moncada then moved to approve the fireworks display contract with Fireworks Productions of Arizona, Ltd. Seconded by Vice Mayor Sacco. Motion passed 7-0.

5. **Donation to the Benson Shop with a Cop Program**

Denise Celentano stated she had given brochures on the Shop with a Cop program to all of Council and she hoped they had an opportunity to look at them. Ms. Celentano explained the Shop with a Cop Program stating there have been from 18 kids to 25 kids participating and she is hoping to get up to 35 this year, adding the Sheriff's Department has said they will cover the extra manpower needs from having more kids. Ms. Celentano then stated she was asking for a donation. Mayor King stated he thinks they do a great job, however it is too early in the morning for him so he has not actually seen it yet. Councilmember Moncada stated the officers have a great time with the kids and it is nice to see officers with the kids. Ms. Celentano stated the officers meet at 5:30 a.m. for breakfast and pictures with Santa, then they ride with their sirens on to go shopping. Ms. Celentano then stated other groups that help are the Boys Scouts, the FBLA, the Benson Choir and other peer groups. Councilmember Moncada moved to donate \$500 to the Shop with a Cop Program. Seconded by Vice Mayor Sacco. Motion passed 7-0.

6. **Discussion and possible action regarding the early termination of the City Attorney contract**

Councilmember Brooks stated he put this item on the agenda because he thought it was worthy of putting it on. Councilmember Brooks stated at the last meeting there was a decision to dismiss the current attorney for reasons, adding he thinks each Councilmember had their own reason. Councilmember Brooks then asked if you have something that you don't feel good with, why continue with it, adding it will be a fair amount of money put in Mr. Masee's pocket on his way out. Councilmember Brooks stated he personally does not have a vendetta against the man; he has seen a lot of bad judgments and he does not trust his judgments or opinions. Councilmember Brooks stated he has had to pay out of his own pocket for legal advice because he has been without legal representation for 2 years. Councilmember Brooks then stated he would like to let Mr. Masee go and move on with the Council and put out an RFP for a new City Attorney. Vice Mayor Sacco stated then end of Mr. Masee's 60-day notice will be on September 6th with Mr. Cox stating that would mean if Mr. Masee's contract were terminated today, Mr. Masee would earn \$9,240 for services through the end of his contract and the Council would still have to pay another interim attorney on top of that expense. Vice Mayor Sacco stated he would like to make a recommendation that the City Attorney would continue until his contract ends on September 6th at no additional cost to the City of Benson. Vice Mayor Sacco then moved to let Mr. Masee continue until September 6th when his contract runs out. Seconded by Councilmember Moncada. Councilmember Wangness stated since they have already let Mr. Masee go, it is apparent Council does not trust his opinions and asked why would Council keep him. Councilmember Cook stated if the Council will have to pay Mr. Masee \$9,240 and have to hire an interim attorney to do the same thing and have to bring a new attorney up to speed on Stagecoach Trails, the General Development Plan Update, the proposed City code and the Zoning code changes and possibly spend \$10,000 to do this, he thinks it would be a phenomenal waste of money. Councilmember Cook then stated a couple of years ago, Mr. Chris Wencker was interviewed for City Attorney, noting he had a copy of the notes from those interviews from himself, Mr. Moffett, Mr. Maldonado and Mr. Borders. Councilmember Cook then stated one of Mr. Wencker's responses was "I consider the City Manager as my primary contact person and I take my direction from him and will be minimally proactive". Councilmember Cook then stated this troubles him because early in June, Mr. Wencker didn't consider the City Manager as his primary contact, adding Mr. Wencker negotiated a contract for himself with

Councilmember Brooks, not with the City Manager. Mayor King stated there is motion and second on the floor and called for a vote. Councilmember Brooks stated Mr. Moffett is not a good authority for Council, referring to the City Attorney interview notes, adding he thinks Mr. Wencker is a good addition to the City and he feels he is fair and does what is right. Motion passed 4-3 with Councilmembers Brooks, Crafts and Wangsness voting nay.

7. **Discussion and possible action regarding the appointment of Christopher Wencker as the Interim City Attorney**

No Action taken on this item.

8. **Discussion and possible action to direct Staff regarding issuing a Request for Proposals (RFP) for Municipal Legal (City Attorney) Services**

Councilmember Moncada stated the City needs to get this process started right away with Councilmember Brooks agreeing. Councilmember Brooks stated when looking at the RFP, he did not agree with page 3 item 2b where it says “shall serve with direction to city manager.” Councilmember Moncada explained that day-to-day operations with the City Manager are necessary, adding this would not be the case with big things. Councilmember Brooks stated it is not quite clear adding that Mr. Masee’s contract basically says the same thing and he feels it needs to be made clearer. Councilmember Moncada stated he doesn’t want the attorney to come to Council with every little thing with Councilmember Brooks agreeing. Mr. Cox stated something could be done to the language for all to understand the roles the City Manager and the City Attorney have day-to-day, then explained the City Manager’s duty is merely to be the conduit of information and obviously Council is the main point of contact. Mr. Cox stated he will work on the language and will get back with the Council, but he believes they are all on the same page and just need to get it on paper. Councilmember Brooks moved to go ahead and accept the RFP with the language change on page 3, item 2b to say the attorney works for City Council and the City Manager uses the Attorney for advice. Seconded by Councilmember Moncada. Councilmember Cook stated he feels Councilmember Brooks is trying to maintain his position as the initial point of contact with the attorney and then asked Mr. Cox to please bear in mind that individual Councilmembers are trying to direct the attorney. Mr. Cox stated he will put the relationship closer to what it is more on a day-to-day basis. Motion passed 7-0.

Vice Mayor Sacco asked when the RFP will be issued with Mr. Cox stating it would be this week. Vice Mayor Sacco asked about the response time with Council agreeing that 3 weeks would be acceptable.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Moncada moved to adjourn at 8:35 p.m. Seconded by Councilmember Brooks. Motion passed 7-0.

ATTEST:

Toney D. King, Sr., Mayor

Vicki L. Vivian, CMC, City Clerk