

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JULY 8, 2013, AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor King issued a public statement, saying he wasn't going to allow the Call to the Public, but after much consideration, was placing it back on the agenda and asked whoever addressed Council to be reasonable and refrain from name-calling. Mayor King then stated everyone has their own thoughts, but asked them to be decent in expressing them to the Council.

Mayor King then called the meeting to order at 7:00 p.m. with the Pledge of the Allegiance. Mayor King introduced Kirk Sorenson of the Assembly of God who offered 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:

Mayor King read a proclamation declaring the Month of July, 2013 as "Parks and Recreation Month." Mayor King then presented the proclamation to Recreation Coordinator Laura Parkin.

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Paul Lotsof addressed Council stating he was not a sports fan and when he was a kid he was the person no one wanted on their team, adding when he was 10 years old he ended up on a baseball team and in deciding on easier and more efficient rules, when it was his turn at bat, he decided to save some steps and run to third base instead of first base. Mr. Lotsof then stated the lesson learned was that each player can't make up their own rules, even if the rules don't make any sense to them. Mr. Lotsof then stated lately he has been seeing a lot of players making up their own rules, in some cases, these players broke established rules, and in some cases, the players took advantage of the fact that the rules were either vague or there weren't any rules. Mr. Lotsof then stated on May 13, he came before Council and brought attention to when the Council terms begin and end, adding he took the position that the Council terms expired on June 22. Mr. Lotsof then stated the newspaper reported that on June 26, the City Clerk contacted state agencies for information about swearing in protocol and was told the terms are from July 1 to June 30, but they didn't report who gave her that information. Mr. Lotsof then stated what is more important is what law requires the July 1 date and if the law does require July 1, then Ms. Vivian has been doing it wrong since she took over as City Clerk in 2005. Mr. Lotsof then stated he was also very concerned how Council agendas are formulated, adding he heard that 2 Councilmembers can put something on the agendas and there also seems to be some thinking that the Mayor has the right to take any item off the agenda if he desires, moreover it is believed the Mayor has the right to cancel a meeting and call a special meeting any time he considers that to be appropriate. Mr. Lotsof then stated there is also the widespread belief that the City Manager can put something on the agenda, adding he searched the City Code and state law and can't find much of anything about how items get on the agenda, how they get removed, who can call for a meeting or who can cancel the scheduled meeting, adding the possibility for abuse is staggering, asking what would happen if the Mayor decided to cancel all meetings. Mr. Lotsof then stated with no rules, anything goes and the City

government crumbles adding this lack of rules pertaining to the agenda has been a problem for years and it is amazing no City Attorney has ever suggested that written rules be established. Mr. Lotsof then stated a few years ago, with no Council action, most agenda items began to contain the name of a public official printed in bold type, but there was no indication of what that means, asking is the person named the person who requested the item be on the agenda or are they the person who is going to address the Council. Mr. Lotsof then stated the bottom of the agenda is full of footnotes and the reason for the bold names could be added to those footnotes. Mr. Lotsof then stated his strongest suggestion is that the subject of agendas be placed on a Council agenda in the near future, adding no one wins when the game has no rules.

Nancy Iverson addressed Council stating they need to realize that they are the people's Mayor and Council and are the City employees' bosses, adding they also need to remember they were elected by the people to represent all the people, not special interests and they should keep in mind what is best for the entire community. Ms. Iverson then stated as Councilmembers, they must check their personal feelings at the door, adding this is their obligation as an elected Councilmember and it has not been the case in the past years. Ms. Iverson then stated the Council must go by the law of their office, not by their feelings or how some people want them to vote to be a good guy, adding she hopes they will work for all the people in this community. Ms. Iverson then asked Councilmember Moncada if he realized being elected to Council meant he was one of his father's bosses. Ms. Iverson then stated she is also very concerned about the negative letters being written and published in the paper, adding if the people that are writing them think they are helping our City, they are very mistaken. Ms. Iverson stated the negativity is not just read by locals, but everywhere these paper go and asked what new business would ever want to come here with what has been written. Ms. Iverson then stated she knows each of the Councilmembers have a backbone and suggested they use it and not be swayed by trying to be a good guy, adding they can see that has not worked. Ms. Iverson then stated Benson needs new businesses and only the Council can make this happen, adding they need to get along and work together. Ms. Iverson then encouraged the Councilmembers to study their Council packets, adding she has confidence they can do the job and be men with a mission to make Benson the City with positive actions.

David Lambert addressed Council stating he would like to donate his 5 minutes to J.T. Moffett.

Stephen Insalaco addressed Council stating he is an advocate of the Benson Municipal Airport and would like to talk about hangar structures at the airport or the lack thereof. Mr. Insalaco stated economic growth at the airport has been slower than desired, adding part of that slow growth can be attributed to poor economic times, but part of it can be attributed to the lack of sheltered aircraft parking in the form of t-shades and hangar structures. Mr. Insalaco then stated John Martin, a former FBO operator of the airport, once stated, "Build it and they will come," in reference to building hangars and t-shades and pilots will bring their aircraft to base them at the Benson Airport, adding Mr. Martin also understood more based aircraft implies better economic wealth for the businesses on the airport property and more airport operations which translate to additional FAA airport improvement program grant funds for capital improvements of airport facilities. Mr. Insalaco then stated this is ever more important now that the FAA is delegating grant funds on demonstrated need. Mr. Insalaco then stated this is why it is important to encourage the City or private developers to build additional hangars or t-shade structures, adding he provided Council and Mr. Brad Hamilton with a white paper that characterizes the existing and possible hangar pad location sites and also provides recommendations on how each pad site should be utilized. Mr. Insalaco then stated he would hope the City would strongly consider building additional hangar structures or t-shade structures, which again, would bring more pilots and more based aircrafts to the airport and assist in the economic health of the businesses on the airport property and progress the City's operation of the airport into the black. Mr. Insalaco then stated he believed the construction of t-shades on the existing west aircraft parking apron could bring 10-20 parking stalls to the property. Mr. Insalaco then summarized his comments stating he would like to ask Council to consider either building these structures or seeking out and encouraging private developers to do the same to bring additional aircraft to the airport, provide a greater number of based aircraft, assist in the greater economic health of businesses on the airport property and assure greater security that the City will receive the fullest amounts in FAA AIP grant funds and progress the City toward operating the airport in the black.

Lupe Diaz addressed Council stating he was in support of the mural project, adding he thinks it would add charm to the community. Mr. Diaz then stated in reference to Council, someone asked him if he thought what happened in the City Manager's office on June 21 was wrong, adding he would like to provide a balanced view and was speaking as a personal resident. Mr. Diaz then stated the election was overwhelmingly evident and the people made their choice. Mr. Diaz then stated it was interesting that the recall petitions surfaced from a City employee after the election adding he knew it was a tense election and there was tension in the City, noting he thought part of this was due to Chapter 7. Mr. Diaz then stated there was a lot of mistrust, anger and suspicion, adding the issue with Little Caesar's also brought tension into the process of events. Mr. Diaz then stated he heard about the boycott of the meeting, but in his view with some of the things he heard, he found there were not only people on the voters block side who missed the meeting, but members from the other side who also missed the meeting. Mr. Diaz then stated he hated to talk about sides, but it's evident that is what happened. Mr. Diaz stated then there was news that the swearing in was going to take place on June 24, but the Mayor cancelled the meeting and the people should be asking themselves why is all of this happening. Mr. Diaz then stated the new Council did their research and did what they thought needed to be done, which was being sworn in by a notary. Mr. Diaz then stated he understood there were all kinds of things happening with that and the Attorney General is looking into the situation, adding he understands there are vacations that were taken during that time and all those things bring questions to the people's hearts. Mr. Diaz then stated the recall is now enflamed and he knows the people feel like they are doing what is right. Mr. Diaz stated he believes the Councilmembers are doing the best they can and he believes Councilmember Brooks asks the right questions, does research, talks to a lot of different people, is looking for equitable government, a government that will stand and bring in policy and added he is in support of keeping Councilmember Brooks on the Council. Mr. Diaz then stated the so called voters block which was mentioned in the paper, is the will of the people, asking if they hear that term come up, to please take the election results into consideration. Mr. Diaz then stated not any one Councilperson makes a decision, but the Council as a whole should make decisions. Mr. Diaz then again stated he knew things happened in the City Manager's office, but he was assured that there were not any pointed or personal accusations that were made, adding he wasn't there and could not tell the Council this was true. Mr. Diaz then stated the actions of the outgoing Councilmembers resulted in the actions of the incoming Councilmembers and should be considered, adding he knows there is a lot of fear, anger and mistrust among the people, but we are going to have to lay that down in order to progress. Mr. Diaz then asked that we all move on and support our newly seated Council, citing a scripture in Proverbs, where no wood is, the fire goes out, so where there is no talebearer, the strife will cease. Mr. Diaz then stated any time we look back, there is a possibility of turning into a pillar of salt so we all need to start looking forward in the things we would like to see.

Dianne Tipton addressed Council stating she would like to note she had requested speaking last. Mayor King stated Mr. Moffett, Councilmember Brooks and Councilmember Wangsness all had the same request to speak last. Ms. Tipton then addressed Council stating everything that has been done in the past is over, they should let sleeping dogs lie and give the new Council a chance to bond with each other and settle into their new positions, adding the public needs to give them support and stand up for them and with them as they go about the City's business. Ms. Tipton then stated the public shouldn't allow anyone or anything to get the Council or the public distracted from what is important, adding they should reject attacks on anyone and do what is best for the community. Ms. Tipton then stated the Council can be a good team if left alone to govern without any interference and with good legal counsel. Ms. Tipton then asked the Council to be strong and united in their purpose, adding they are the public's leaders, so they should lead the public. Ms. Tipton then stated to the public, she says reject those with personal power agendas, be smart enough to recognize a lie when you hear one and a fake when you see one and not to allow themselves to be fooled by either. Stand up, be wise enough and strong enough to shut down those who speak hate and destruction and don't listen to it, adding shame and disgrace should come upon anyone who wants to interfere with this new Council and who inserts themselves into the running of this City just for the sake of seeking power and to appease their ego, especially when they try to do it in the name of the Lord. Ms. Tipton then stated God is watching and he always knows the truth, adding we are all instruments and we can march separately as solos or we can march together as a band, adding she is here to support the band.

Barbara Nunn addressed Council stating she had a question about the golf course. Ms. Nunn then stated the golf course currently has no liquor license and she has talked to 10 people in the last week that aren't coming to Benson anymore to play golf because they can't have a drink after they play golf. Mayor King then stated he would have Mr. Cox address this subject. Interim City Manager Jim Cox then stated the City processed the annual renewal of the liquor license, which was due on June 30 and found it was held up due to a lien having been filed on the prior owner of the golf course who gave the City the liquor license as part of the gift of the golf course. Mr. Cox then stated the City is currently in negotiations with the Department of Revenue to get the lien released and hopes that the liquor license will be back in place this week, adding these were circumstances beyond the City's control.

J.T. Moffett addressed Council stating he would like to thank Mr. Lambert for donating his time. Mr. Moffett then stated he had high hopes to come to the first session of the new Council and give them encouraging and positive messages, but sadly in light of recent events and antics from a few of the Council, he has taken a different approach in the hopes it will bear fruit for the future of a more stable and cohesive Council. Mr. Moffett then stated he shared the sentiment of a great many citizens of Benson when he says that he is appalled at the behavior of Councilmembers Brooks, Crafts and Wangsness, adding people ask him all the time if those Councilmembers have lost their minds. Mr. Moffett then stated having some knowledge of the whole affair, he must say that the rumor about the pending action on the part of the Council and the fallacy of having no Council quorum after the 21st of June was nothing more than propaganda designed to compel the Council to make some rash decisions. Mr. Moffett then stated Mayor King cancelled the June 24 meeting effectively ending the controversy and he applauds Mayor King for standing tall, making the right decisions and standing firm against the manipulation and pressure from Councilmember Brooks and his followers, henceforth referred to as "Brookies." Mr. Moffett then stated first Councilmembers Wangsness and Crafts boycotted the City Manager Selection committee meeting, citing a conflict of interest from Councilmember Moncada, adding for the record, the conflict of interest is a lie. Mr. Moffett then stated Councilmember Crafts should not insult our intelligence by copping out to missing the meeting because he had to work, adding neither the Chairman nor the City Clerk ever got a message from him that he would miss the meeting and only after the negative public backlash did Councilmember Crafts deny boycotting the meeting. Mr. Moffett then stated for the record, there is no conflict of interest for Councilmember Moncada to be on that committee. Mr. Moffett then stated Councilmembers Crafts and Wangsness then had themselves sworn in before some obscure notary public, adding there was none more obscure than who swore Councilmember Crafts in, adding Councilmember Crafts was in a totally different county before someone who could not possibly know if he won an election in Benson. Mr. Moffett then stated armed with their meaningless sworn affidavits, Councilmembers Brooks and Wangsness marched into City Manager Jim Cox's office, led by Dianne Tipton demanding recognition as Councilmen and for the meeting for June 24 be reinstated, adding to make matters worse, they threatened Mr. Cox with felony charges and the police had to be called. Mr. Moffett then asked if they knew how many ethics and laws they violated, to say nothing of the public's trust, noting the public feels like their trust has been violated. Mr. Moffett then stated many people worked hard, spending a great deal of time and money campaigning to get them elected, yet when the "Brookies" began their grab for power, they forgot their campaign promises and followed them like sheep, asking where that advice had gotten them. Mr. Moffett stated the new Councilmembers were still not officially sworn in on this Council until July 1, when a state recognized elections officer swore them in. Mr. Moffett then stated they did not succeed in intimidating Jim Cox into rescheduling the June 24 meeting with Mr. Brooks' personal agenda on it and nothing happened between June 24 and July 1 to warrant their rebellious behavior, adding they only succeeded in showing who Councilmember Brooks really is and put themselves in the same boat as him. Mr. Moffett then stated the SS Brooks is sinking and they should abandon ship, adding Councilmember Brooks' bitter style of aggressive politics has become very unpopular with the Benson community and ever since the election, Councilmember Brooks has grown quite large in his own sight, mouthing numerous threats against everyone from Mayor King to several City employees. Mr. Moffett stated he knew this because he was on the receiving end of many of those conversations with Mr. Brooks and he has grown weary of Councilmember Brooks' ego and his dictatorship mentality. Mr. Moffett then stated it's time for him to cut the tie that binds, adding he wants no part of Councilmember Brooks' personal vendettas. Mr. Moffett then stated to cut administrative costs in City Hall is just economics,

adding we have to downsize our government if we hope to grow as a community, but with Councilmember Brooks, it's personal, adding Councilmember Brooks wants everyone to know that he holds the ax at the chopping block. Mr. Moffett then stated the attempted coup on June 21 in Mr. Cox's office is further proof of Councilmember Brooks' lust for power, adding Councilmember Brooks thinks he has the voting block to do whatever he desires on this Council and he is sorely mistaken. Mr. Moffett then stated there is also Councilmember Brooks' highly questionable and unethical relationship with Dianne Tipton, a key player in the Stagecoach Trails lawsuit and asked what any of the Councilmembers are doing intimately socializing with someone who is suing their constituents, and then joining her to harass the City Manager, going to parties at her home and acting on legal advice from her. Mr. Moffett then stated if anyone wanted to talk about a conflict of interest, they need to look no further than the Brooks-Tipton connection and lay off Councilmember Moncada, adding the personal vendetta Councilmember Brooks has against Councilmember Moncada is really getting old, adding in fact, all of Councilmember Brooks' personal vendettas are a burden on this Council and this community. Mr. Moffett then stated he was against the recall in the beginning, but Councilmember Brooks' behavior recently has caused him to fall back on the wise old saying, "where there's smoke, there's fire," adding Councilmember Brooks is making many of the public believe what they are hearing. Mr. Moffett then stated he hopes Councilmembers Wangsness and Crafts take a good hard look at who is advising them and who they have followed, asking them to separate themselves and be their own men, adding they should take no further advice from the people who have misled them, but should seek qualified legal counsel. Mr. Moffett then stated their recent antics came from internet-based legal research, and Councilmembers Crafts and Wangsness were the victims of what he calls "cut and paste law," adding the "Brookies" take an A.R.S. statute and try to apply it by cutting it out and pasting it into a situation so it will fit their agendas. Mr. Moffett then stated the City of Benson was never without a Mayor or Council, adding they were shown only parts of the law that led them to believe otherwise and he is confident no bonafide attorney told them any of the so-called laws were broken. Mr. Moffett then suggested they chalk it up to a mistake and reject any further counsel from the "Brookies," adding for the record, City Clerk Vicki Vivian did not suddenly take June 21 off so the new Councilmembers couldn't be sworn in as the "Brookies" said, but was at her son's wedding, adding he is quite sure the wedding was planned far in advance. Mr. Moffett then stated this is how they twist things to fit their own agendas, adding Councilmembers Crafts and Wangsness were duped into believing they had to swear themselves in. Mr. Moffett then stated the Councilmembers needed to admit to the people of Benson that they made a mistake and let the public see they are not too proud. Mr. Moffett then stated Councilmember Brooks not only refuses to ever admit he is wrong, but he actually went and gave Jim Cox a directive without Council approval on June 21, after all the trouble he's in for doing the exact same thing to City employees, adding Councilmember Brooks is the only official Councilman who was present on June 21 who still maintains he had the right to direct Mr. Cox at his office. Mr. Moffett then stated for the record, any directive given to the City Manager must come from this Council, in these Chambers, in open session with the exception of an agenda item and he commended Interim City Manager Jim Cox and Mayor King for their self-control and efficient handling of the altercation, adding both refused to be intimidated by internet lawyers and stood firm in support of the July 1 swearing-in ceremony and the State of Arizona agreed. Mr. Moffett then stated this is Councilmembers Crafts' and Wangsness' wake up call, adding they should not try to justify their actions any further. Mr. Moffett then stated a great many of their supporters are feeling betrayed and they need to let their supporters know they have learned from their mistakes. Mr. Moffett then stated he had a proposal for Councilmember Brooks, who has done a lot of bragging about his support for the people of Benson, adding as the public knows, the Senior Center is in dire straits and is in need of additional funding and the recall will cost taxpayers around \$10,000. Mr. Moffett then suggested that Councilmember Brooks resign and save the taxpayers \$10,000, adding the Council can then turn and give that money for the recall to our Senior Center and Councilmember Brooks can finally honestly say he did something for the people of Benson. Mr. Moffett then stated the Council could then choose someone to fill Councilmember Brooks' seat who has no axes to grind, someone who will work with the Mayor and Council, with City Hall and will listen to the people of this fine community, adding Councilmember Brooks is not that man and he should do the right thing and resign.

Councilmember Brooks stated he has a response and stated he never heard Mr. Moffett quote any codes or anything in front of the public that supports anything he says. Councilmember Brooks then stated they

have documentation and everything they need to show exactly what they did, which was to make a request of Mr. Cox, adding it was not a demand. Councilmember Brooks then stated it was their right as Councilmembers and he did it for them, adding they have their rights to have their seats on time without being interfered with. Councilmember Brooks then stated he heard a rumor that Mr. Moffett talked the Mayor into cancelling the June 24 meeting and that he has seen Mr. Moffett attack just about every person on this Council and the past Council and then come back and make friends with them. Councilmember Brooks then stated he didn't know what Mr. Moffett's interest is in Benson, but he had a conversation with Mr. Moffett and Mr. Moffett told him that he would protect the Mayor from everyone. Councilmember Brooks then stated that scares him that Mr. Moffett would protect the Mayor from talking to Councilmember Brooks or other Councilmembers. Councilmember Brooks then stated he wanted to make it clear that he had a conversation with Mr. Moffett and it made him afraid of who Mr. Moffett is and what his intentions are in the community.

Councilmember Wangsness stated he was going to read his open letter he sent to the editor of the San Pedro Valley News-Sun, in response to the actions of the last month and people's misperceptions, adding since he was entrusted by the voters of Benson, he only thought it fair that they be apprised of the full situation. Councilmember Wangsness then stated he never cited Chris Moncada or a boycott of the meeting and he doesn't know where that came from. Councilmember Wangsness then stated as far as the comments about smoke and fire, smoke may come from the fire of purity as well as the fire of dung. Mr. Wangsness then read his letter which will be retained with the Council packet.

Mayor King stated he would like to respond to some comments made during the Call to the Public, stating in reference to the June 24 cancelled meeting, he was asked by a citizen at the Call to the Public to cancel all meetings until the new Council was sworn in and that is what he did. Mayor King then stated the ability of the Mayor to cancel a Council meeting when warranted has been the practice for the last 12 years and while it may need to be addressed in the codes, he and previous Councils have been advised by the City Attorneys over the years that is was ok for the Mayor to do so. Mayor King then stated Mr. Moffett found out about the cancelled meeting the same time all the other citizens did, adding he talks to many citizens of the City all the time. Mayor King then addressed the comments regarding the new Councilmembers having themselves sworn in, stating if it was so important to do so, why wasn't Jeff Cook and he invited.

CITY MANAGER REPORT:

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

- | | |
|---------------|--|
| July 9, 2013 | – Library Advisory Board, 4:00 p.m., City Library |
| July 20, 2013 | – Historic Preservation Commission, 9:00 a.m., City Hall |
| July 22, 2013 | – City Council Meeting, 7:00 p.m., City Hall |
| July 23, 2013 | – Ribbon Cutting Ceremony, Union Park Playground, 10:30 a.m.
Community Watershed Alliance, 6:30 p.m., City Hall |

Acting Interim City Manager Jim Cox stated the City pool is currently down due to the main pump in the pool being broken, adding the City had to order another one and we anticipate the pool being opened again on Saturday, July 13. Mr. Cox stated it will be installed as soon as possible, but anyone wishing to go to the pool should call City Hall to make sure the pool is open. Vice Mayor Sacco stated the City should have a spare pump on hand so the pool didn't have to be closed down with Mr. Cox stating the pump had a design change and with the maintenance schedule, we can expect more longevity from the pump. Mr. Cox then reminded everyone to check the ADOT project closures at www.adot.gov for more information.

Mayor King stated he would be out of town for approximately 7 days and Vice Mayor Sacco would be the Acting Mayor while he was gone. Mayor King stated he would be available if something came up and anyone needed to contact him.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the May 15, 2013 Worksession
- 1b. Minutes of the May 20, 2013 Worksession
- 1c. Minutes of the June 3, 2013 Special Meeting
- 1d. Minutes of the June 10, 2013 Regular Meeting
- 1e. Minutes of the June 20, 2013 Special Meeting
- 1f. Appointment of Jean Baden to the Benson Board of Adjustment
- 1g. Appointment of Jane Scholer to the Benson Board of Adjustment
- 1h. Appointment of Bob Baden to the Planning & Zoning Commission
- 1i. Reappointment of Irma Bernal to the Benson Historic Preservation Commission
- 1j. Reappointment of Phyllis Little to the Benson Historic Preservation Commission
- 1k. Appointment of Alwine Frega to the Benson Historic Preservation Commission
- 1l. Appointment of Peter Wangsness to the Benson Historic Preservation Commission
- 1m. Appointment of Peter Wangsness to the City of Benson Economic Development Subcommittee (EDSC)
- 1n. Renewal of the contract with Southeastern Arizona Governments Organization (SEAGO) Area Agency on Aging, Region VI
- 1o. Resolution 20-2013 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of an Intergovernmental Agreement between the City of Benson and the Benson Unified School District #9 (the "District") to permit reciprocal use of the buildings and grounds of the City of Benson and the District
- 1p. Resolution 21-2013 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of an Intergovernmental Agreement between the City of Benson and the Pomerene Elementary School District #64 (the "District") to permit reciprocal use of the buildings and grounds of the City of Benson and the District
- 1q. Facility Use Agreement between Cochise County Community College District and the City of Benson for the use of the college owned facility located at 1025 S. SR90, Benson, Arizona
- 1r. Purchase of two TORO brand greens mowers for the golf course
- 1s. Invoices processed for the period from May 31, 2013 through June 13, 2013
- 1t. Invoices processed for the period from June 14, 2013 through June 27, 2013

Councilmember Brooks stated he would like to remove items 1f and 1g. Councilmember Wangsness then stated he would like to note that for Items 1a through 1e, he was not present, nor a Councilmember, asking if he could legally vote on them. City Attorney Mike Masee stated he doesn't see the need for pulling those items off the Consent Agenda, adding when a Councilmember is not present for a meeting, they can still vote in the affirmative which would entail only the presumption that the minutes were correctly prepared. Mr. Masee then stated if the Councilmember has a concern that the minutes were not correctly prepared, they can pull the item off and discuss it, but again, Councilmembers who were not at a meeting can vote in the affirmative without any impropriety. Councilmember Wangsness then stated he would like to remove items 1f, 1g, 1h, 1k and 1l, adding those are new appointments to Boards and Commissions. Mayor King then asked if there was a motion for the remaining Consent Agenda. Councilmember Brooks moved to approve the Consent Agenda without items 1f, 1g, 1h, 1k and 1l. Seconded by Councilmember Moncada. Motion passed 7-0.

Consent Agenda – Items Removed:

- 1f. Appointment of Jean Baden to the Benson Board of Adjustment

Councilmember Brooks stated normally when there are sitting members on a board and their terms come to expire, the secretary usually calls them and asks them if they want to continue their service or if they would like to withdraw, but that never happened. Councilmember Brooks then stated he happens to be on the

Board of Adjustments and Mr. Robert Barnaby was also, adding he called Mr. Barnaby and they both would like to continue their service. Councilmember Brooks then stated he turned in a letter requesting a reappointment and Mr. Barnaby will be submitting a letter requesting reappointment also. Councilmember Brooks then stated their terms expire July 31, so as long as their requests are back to the Council, they don't need any more applicants to apply. Councilmember Brooks then moved to table this item until the next meeting. Councilmember Cook stated he would rather not table the item, stating he introduced himself to Jean and Bob Baden and asked them if there had been any other Councilmember try to screen them for their own political purposes the way Councilmember Brooks did with Jason Miller's appointment to the Board of Adjustment and they told him no one had. Councilmember Cook then stated Mr. Baden offered the information that he had a background in construction and he has the time to serve on the Board. Councilmember Cook then stated the Badens probably do not meet Councilmember Brooks' political litmus test and seemed to be independent which was a good thing. Councilmember Cook then stated the Badens live in his neighborhood and he feels his neighborhood needs representation and he feels the Council should vote on the item tonight. Mayor King stated there was a motion to table the item on the floor. Seconded by Councilmember Crafts. Motion then passed 6-1 with Councilmember Cook voting nay.

1g. Appointment of Jane Scholer to the Benson Board of Adjustment

Councilmember Brooks stated he would like to table this item under the same circumstances as item 1f; that existing members of a committee should be allowed to have a preference in continuing their service if they are providing good service to the City. Seconded by Councilmember Crafts. Motion passed 5-2 with Vice Mayor Sacco and Councilmember Cook voting nay.

1h. Appointment of Bob Baden to the Planning & Zoning Commission

1k. Appointment of Alwine Frega to the Benson Historic Preservation Commission

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

Councilmember Wangsness stated he would like to address all the appointments in the Consent Agenda that are new appointments, items 1f, 1g, 1h and 1k as a group, not individually, adding his suggestion is for existing members of a board or committee whose terms are expiring be given precedence and automatic renewal. Councilmember Wangsness then stated he would also like to see some due diligence for new applications from now on. Councilmember Wangsness then stated while there are no specific qualifications to sit on these boards and committees, there is no reason not to have some standards and philosophies since these boards, commissions and committees act on behalf of and represent the City of Benson. Councilmember Wangsness then stated he believes there should be some processes for the selection of the positions and at the very least, he would like to see a comment from the sitting Chairperson and perhaps an informal interview with the Council. Councilmember Wangsness then stated he would also like to suggest that at least 1 Councilmember sit on each board or committee to represent the City of Benson. Councilmember Wangsness then stated the Mayor and Councilmembers would be exempt from the reviews as they have already been selected and endowed with the trust of the people of Benson.

Councilmember Brooks then moved to table items 1h, 1k and 1l. Seconded by Councilmember Crafts. Councilmember Moncada asked if the reason he wished to table the items was the same as items 1f and 1g. Mayor King stated he was a little concerned about having 4 Councilmembers on a committee with Councilmember Moncada stating that item (1m) had already been passed. Councilmember Wangsness then stated item 1l was his appointment to Historic Preservation Commission, adding the commission had mentioned reducing its size from 9 to 7 members, but he contacted Ms. Bernal on the commission and she stated it was due to the fact no one wanted to be on the commission. Councilmember Moncada then asked why these items should be tabled with Councilmember Brooks stating he believed Councilmember Wangsness wanted to address them. Councilmember Wangsness then stated he thought it would be appropriate for new appointments to come forward at the next meeting so Council could talk to them and at least know who is representing the City and the Council on these commissions, adding he feels this should happen with new appointments, but wasn't necessary with reappointments or appointments of

Councilmembers. Councilmember Cook stated this looks political to him, adding Ms. Bernal's term was coming to an end and she was aware of that and asked to be reappointed. Councilmember Cook then stated it appears to him that everyone knew their term was ending and that Councilmembers should not try to stack the deck politically in their favor, adding he thinks the Council needs to move on with the people who have expressed an interest and leave behind the people that are just trying to play catch up with Council assistance. Mayor King then called for a vote. Motion passed 6-1 with Councilmember Cook voting nay. City Clerk Vicki Vivian asked if the item was tabled to the next Council meeting, with the Council concurring.

2. **Benson Butterfield Rodeo Committee's request for assistance by providing and assisting with set up of serpentine fencing, providing equipment and personnel to assist with the chalking of the parking lot at the Arena, giving access to water for prep and dust control and becoming a Sponsor for the Benson Butterfield Rodeo**

Heather Floyd, President of the Benson Butterfield Rodeo Committee, addressed Council stating this is their 13th year running the Benson Butterfield Rodeo. Ms. Floyd then gave a brief history of the event, stating the first year, they partnered with the Chamber of Commerce and after that, formed their own 501c4 to produce an annual event. Ms. Floyd then stated they produce the event every year, because they wanted more events in our community and noted when they make money, they give it back to the community, adding primarily they have given funding to All the King's Horses Childrens Ranch and the San Pedro Family Resource Council, but occasionally have donated to some Christmas Trees/Angel Trees and things of that nature. Ms. Floyd then stated she was coming before Council to ask for the labor and physical assistance the City has provided for the past 13 years, adding it makes the event go a lot smoother and is truly appreciated, noting they are an all-female rodeo committee and to have some gentlemen help really lightens the load. Ms. Floyd then stated she is also coming to Council for financial assistance to put on the 2-day rodeo, adding the reason for this is last year, the City Council asked them to do that, adding in order to do so, it costs quite a bit more money, noting last year the City did assist in the costs by donating approximately \$3,000 to host the second day. Ms. Floyd then stated the reason the request for this year is a little more is because the bids that came in last year were actually higher and the rodeo committee had to pay to host the second day. Ms. Floyd stated the committee would like to ask the City to cover the cost of the second day so they can continue giving their proceeds to charities, noting last year, their donations were down due to having to pay for the extra expenses. Councilmember Brooks asked where the committee received the majority of the funding for the rodeo with Ms. Floyd stating the committee solicits businesses that support the event through funding and equipment, noting the cost for a 2-day event is approximately \$20,000. Councilmember Brooks commended Ms. Floyd stating the event definitely brings revenue into the City and last year, it seemed to work well as a 2-day event. Councilmember Brooks then asked if the Council had put money for this event in the Community Enrichment fund with Finance Director Megan Moreno stating the Council budgeted \$4,675 specifically for the Butterfield rodeo. Councilmember Moncada stated a 2-day event keeps people in the City overnight and helps businesses in the City such as hotels and restaurants, adding the rodeo committee does a great job with the event. Mayor King concurred with Councilmembers Brooks and Moncada stating the committee has built the event over the years, adding he heard people in Tucson and Marana talking about the rodeo in Benson. Councilmember Cook stated he went to the event location after the event and found that there was still an enormous crowd who stayed to drink and socialize, adding with a 2-day event, the City makes money back through additional sales in the City. Councilmember Brooks then moved to approve the request for assistance by providing and assisting with set up of serpentine fencing, providing equipment and personnel to assist with the chalking of the parking lot at the Arena, giving access to water for prep and dust control and becoming a Sponsor for the Benson Butterfield Rodeo with financial support in the amount of \$4,650. Seconded by Councilmember Moncada. Motion passed 7-0.

3. **Adoption of the Benson Area Transit Program Civil Rights Policies in both English and Spanish**

Public Works Director Brad Hamilton stated as part of receiving the federal transit grants, the City has to adopt a civil rights policy, adding the policy was provided by ADOT, who administers the grant from the

federal government. Councilmember Moncada asked if this was new with Mr. Hamilton stating this was one of the things that came up in the federal audit. Councilmember Moncada asked if the policy was available for riders with Mr. Hamilton stating anyone who asked for a copy would be given one. Councilmember Brooks then clarified that the policy basically regulates the driver and any employment activities we have as related to the transit system. Councilmember Brooks then asked about the transportation advisory committee with Mr. Hamilton stating Council will be seeing that committee come forward in the near future. Councilmember Wangsness then stated the statement of equal opportunity is quite a bit longer than the one for ADOT, and noted the proposed statement is missing the word “sex” which is listed in the ADOT policy. Councilmember Wangsness stated the proposed statement only has gender and sexual orientation, noting gender and sex are not the same and suggested adding the word “sex” to be compliant. Mr. Hamilton noted it could be changed with Councilmember Wangsness stating gender refers to an orientation rather than the actual DNA of an object in that term. Councilmember Moncada moved to adopt the Benson Area Transit Program Civil Rights Policies in both English and Spanish with the addition of the word “sex” in the equal opportunity statement. Vice Mayor Sacco asked if the policy had been through legal review with City Attorney Mike Masee stating he reviewed the policy and it was consistent with other policies that have been adopted by other cities and towns with this type of a transit public service. Motion seconded by Councilmember Crafts. Motion passed 7-0.

4. **Discussion and possible action to provide financial support for proposed murals on the outdoor walls of the Visitor’s Center parking lot**

Southeastern Arizona Economic Development Group (SAEDG) Director George Scott addressed Council stating Benson has a lot of opportunities coming up for growth and new business soon. Mr. Scott then stated one of the ways that we, as a community, should encourage new business is to build on the tourism business we have. Mr. Scott then stated he had talked to a lot of the Council about this mural project, which will help tourism and he would like to introduce Lisa Hill, who has volunteered and was appointed as the chairman of the Benson Clean & Beautiful Committee, which was established about 6 or 7 years ago.

Ms. Hill then addressed Council stating she had been elected chairman of the Benson Clean & Beautiful Committee and their immediate goal is to paint murals on downtown Benson buildings to encourage new business through tourism. Ms. Hill then stated they would like to start with the walls west of the Visitor Center, depicting train murals to go along with the railroad logos that will be installed as part of the grant awarded to the City from Union Pacific. Ms. Hill then presented sample murals from other cities and stated they asked Doug Quarrels of New Mexico, a wonderful muralist, to do the first 3 murals because he quoted a price of \$15.00 per sq. ft. which would be about \$7,000 for the three of them, but he instead offered to do 8 murals for \$3,600, which is less than \$10.00 per sq. ft. because he is excited about moving to Benson and doing the murals all over town. Ms. Hill then referred to the sample murals, stating the murals will be done in full living color and will really beautify the City. Ms. Hill then stated the Benson Clean & Beautiful Committee from 2003 to 2007, did a wonderful job of fundraising, adding they have some funds in their account, but are asking the City of Benson for a donation to help with the first project and they feel once the muralist starts painting these murals, they will have people coming forward to help with the costs, adding the committee will also be doing some very aggressive fundraising to get the City painted with these murals. Councilmember Moncada applauded the committee’s efforts and stated he felt it was a great project and he would love to see this history around the City. Councilmember Crafts stated he wished the Council could have seen the YouTube video of some of the work and also the drive the muralist has and how he motivates the young people to work on the art as well. Councilmember Crafts then stated we have artisans in this community too and he is sure the muralist is going to be working with them. Councilmember Crafts then stated in the past, it has been mentioned that the town needs some feeling and some vibrancy, adding this is a very good start. Vice Mayor Sacco stated one of his neighbors is an artist, who took a look at the presentation and told him the committee is getting a bargain. Vice Mayor Sacco then stated he thinks it’s a great project. Mayor King agreed stating it’s nice to see the old photos of Benson at the new underpass and this will be another addition to bring Benson’s history and heritage back. Councilmember Cook stated at first, he wanted the artist who had done the mural at 4th Street and San Pedro to do the proposed murals, but once he saw the presentation, he was quite happy with the muralist.

Councilmember Cook then asked if anything had been budgeted for this project with Finance Director Megan Moreno stating the budget contained \$2,500 in City promotions that is available for any miscellaneous projects the Council wishes to donate to throughout the entire fiscal year. Ms. Hill then stated the committee was not asking for the entire amount and would be very happy with a donation of \$1,500. Councilmember Wangsness stated he liked the idea of murals tying the City together, adding he had been working with Bob Nilson on a couple other projects that would tie in well with this project, such as trying to resurrect the banners that were once on the street signs around town, adding they would be Welcome to Benson banners with a railroad motif. Ms. Hill then stated their request is for a donation to assist with funding the project, but also includes permission to paint these murals on City property. Councilmember Brooks stated he liked the idea, adding there has been talk in the past about what kind of theme we want for the City, adding no one has figured out what we want, but it looks like it's developing itself. Councilmember Brooks then stated he thinks this is a good project to start with, it will flow well with what we've got and is a good way to start giving culture to our City. Councilmember Brooks then moved to approve a donation of \$1,500 to the Benson Clean & Beautiful Committee from the City promotions line item for the mural project. Seconded by Councilmember Wangsness. Councilmember Cook stated the request was also for permission for the murals to be painted on the City property and the motion needed to be amended to include their permission. Councilmember Brooks then amended his motion to include permission for the murals to be painted on the walls next to the Benson Visitor Center. Amended motion seconded by Councilmember Wangsness. Motion passed 7-0.

5. **Review of City Finances with emphasis on May, 2013 financial results, the City's financial position at May 31, 2013 and discussion of expected future net revenue streams**

Finance Director Megan Moreno addressed Council with the financial highlights for the month of May, adding the next presentation will be the year in review so it will be slightly different. Ms. Moreno then stated the City's unrestricted cash balance has decreased since last month to \$1.5 million, noting one of the big reasons for this is the City made the fifth annual payment to Wal-Mart in the amount of \$250,000 per a development agreement. Ms. Moreno then stated bond proceeds as of May were still \$1.4 million, but would decrease next month, due to a bond draw in June for \$245,000 as reimbursement capital projects being done around the City. Ms. Moreno then stated expenditures did exceed our revenues by \$86,000, again noting the payment just made to Wal-Mart. Ms. Moreno then stated Citywide revenues for May were \$876,000 and \$9.4 million year-to-date which is a decrease over 2012. Ms. Moreno then stated she would like to briefly review revenue changes, stating the golf course actually saw significant improvement in revenues over 2012, adding not only was May a better month, but over the fiscal year, it is up \$158,000 in golf operations, adding the revenue is at 110% of budgeted revenue already as of May and there is still 1 month to go. Ms. Moreno then stated there were also significant decreases in our revenues, noting construction sales tax, impact fees and utilities revenues are all down. Ms. Moreno then stated the gas fund revenue seems to be down from the prior year, attributing the decrease to a warmer winter, noting the months with the large decreases over last year were December and January. Ms. Moreno then stated wastewater revenues appear to be down as well, due to the City not being reimbursed for hauling fees for Whetstone wastewater, but noted the City no longer has the expenditures associated with it either. Ms. Moreno then stated sanitation revenues are also down about \$25,000 from last year, noting the majority of the decrease has to do with commercial revenues, adding commercial customers no longer have to use the City as their solid waste removal provider and they can contract with other companies, while residential customers are still required to use the City. Ms. Moreno then stated the City has seen some commercial accounts move from the City to their own vendors, but has also seen a few customers resume service with the City after realizing the City cost less. Ms. Moreno then reviewed the General Fund stating revenues are on target with budgeted numbers at \$498,000 for the month of May, personnel costs were \$238,000 and other expenses were about \$110,000, adding the City did see a strong positive fund balance for the General Fund, so even though citywide our fund balance was negative, in our General Fund, the revenues exceeded our expenditures and brought our fund balance for the year down to only being negative \$14,000. Ms. Moreno then stated we would like to see that figure even by the end of the year. Councilmember Brooks asked how many payments were left to Wal-Mart with Ms. Moreno stating she believed there were slightly over 4 payments, adding she would get the exact figure to Council.

Ms. Moreno then reviewed the Enterprise Funds beginning with the Gas Fund stating it was down for the month of May, noting gas usage is going down, but we still have expenditures, adding this is typical for this time of year. Ms. Moreno then stated the Water Fund is still doing well, thanks to the electronic meters, adding it is always operating with a positive fund balance. Ms. Moreno then stated the Wastewater Fund is also back up to a positive fund balance for the month of May, noting last month there were a few unexpected expenditures, but the fund recovered this month. Ms. Moreno then stated sanitation is also operating at a positive and has been for the past couple months. Ms. Moreno then stated in the Golf Course, Council could see in the operations side, a positive for \$1,000, adding that does include the \$25,000 donation and noted the City has one more donation left. Ms. Moreno then stated in the food and beverage side of the Golf Course, there was a positive fund balance of \$3,600.

Ms. Moreno then moved to sales tax, stating the City had a declining trend in retail sales tax where it is decreasing and then out of nowhere, we posted a strong showing in May of about \$70,000 more than we had in the prior May and was also up year-to-date. Ms. Moreno then stated with this strong amount in May, she and Interim City Manager Jim Cox took a look to see if it could be a timing issue, but it looks like the sales tax collections were increased. Ms. Moreno then stated it could be someone paying late payments or could be the result of an audit or it could be a combination of the two, but stated it doesn't appear to be a timing issue. Ms. Moreno then stated bed tax for the month of May went right back to the normal level after a strange increase in April, which may have been due to a catch up on payments or an accounting issue. Ms. Moreno then noted there isn't much in construction sales tax, adding it could increase in the near future due to a couple of pending construction projects. Ms. Moreno then stated the City's total sales tax collections for the month of May are slightly above where we were last May and significantly above Fiscal Year 2011-2012. Ms. Moreno then noted the State sales tax collection is easy to predict and following along nicely.

6. **Discussion and possible action regarding the termination of the City Attorney Contract and the appointment of an Interim City Attorney**

Councilmember Brooks stated he felt in the past, the City hasn't had the best representation, he thinks the City could do better and he would like to entertain looking at a new City Attorney. Councilmember Moncada stated he thought Mr. Masee has done a pretty good job, and he thinks Mr. Masee gets the blame for the things that aren't necessarily his fault, since ultimately it is the Council's decision on how things progress. Councilmember Brooks then moved to dismiss the current City Attorney and look for a new Interim City Attorney. Seconded by Councilmember Wangsness. Councilmember Brooks then stated he did have a problem with the advice he got from the City Attorney on a number of occasions, he felt the City didn't get good service from Mr. Masee and would like to end his contract on that note. Motion passed 5-2 with Councilmembers Cook and Moncada voting nay. Interim City Manager Jim Cox addressed Council asking if the City was now without representation with Councilmember Moncada noting Mr. Masee's contract contained a 60-day notice to terminate his contract, adding the Council effectively gave Mr. Masee a 60-day notice. Councilmember Brooks stated the Council had taken the vote already with Councilmember Moncada stating if the Council didn't give Mr. Masee the required 60-day notice, it would be a violation of the contract. Councilmember Brooks then stated he would like to see the City move forward with a new City Manager and a new City Attorney, adding he would like to go ahead and say that the Council could give Mr. Masee his severance pay. Councilmember Moncada stated he didn't recall a severance pay clause in Mr. Masee's contract with Councilmember Brooks stating Mr. Masee would get the 60 days but he felt the City didn't need to continue with his service. Councilmember Brooks then stated it would be difficult to ask Mr. Masee about this, but he needed the City Attorney to give him advice on how the Council could change a vote they just made. City Attorney Mike Masee stated he felt clarification via a second motion or vote is appropriate, adding he didn't think it was reasonably clear within the prior motion. Mayor King asked if there was a motion with Councilmember Brooks stating Mr. Masee is entitled to 60 days, so he didn't consider it a severance package, and he didn't know how the Council could modify a motion that was already voted on. Mr. Masee stated the motion to dismiss was clear, and Council had now been discussing under what terms the dismissal would be; whether it is under

the terms in the contract where the dismissal takes effect with a 60-day notice or if it is to be effective immediately and in lieu of 60 days, pay a severance package, adding he didn't want to give Council advice on that, noting it was up to the Council. Vice Mayor Sacco moved to have Mr. Masee stay on as City Attorney for 60 days. Seconded by Mayor King. Councilmember Cook asked Mayor King to restate the motion with Mayor King stating the motion is that the City keep Mr. Masee for 60 days per the contract. Interim City Manager Jim Cox asked if it were legal for the City to go forward functioning without a City Attorney, adding it would be unwise, but noted that could be sorted out between now and the next meeting. Councilmember Wangsness stated he understood the motion to be to keep Mr. Masee on for the 60 days. Councilmember Cook stated he didn't want to complicate matters further, but he would like to ask for legal advice on discussing the terms of Mr. Masee's termination, adding he wanted to make sure Council wasn't violating the open meeting law. Mr. Masee stated the terms under which the contract will terminate are within the scope of what had been listed on the agenda as well as a subsequent vote on whether to appoint an Interim City Attorney tonight. Mayor King then called for a vote with Councilmember Brooks stating the Council could keep Mr. Masee until they found an Interim City Attorney. Motion then passed 6-1 with Councilmember Brooks voting nay.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Brooks moved to adjourn at 9:00 p.m. Seconded by Councilmember Wangsness. Motion passed 7-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk