

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD SEPTEMBER 12, 2011 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 7:01 p.m. with the pledge of allegiance. Mayor King then introduced Eileen Littrell of the Baha'i Faith who gave the invocation.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Councilmembers Ron Brooks, David Lambert, Nick Maldonado, Chris Moncada and Al Sacco. Excused was: Vice Mayor Lori McGoffin.

EMPLOYEE RECOGNITION: None.

PROCLAMATION: Mayor King asked Councilmember Lambert to read a proclamation of the Mayor and Council declaring week of September 19, 2011 as "Employer Support of the Guard & Reserve Week."

PUBLIC HEARING: None.

CALL TO THE PUBLIC:

J.W. Hill addressed Council stating he has always been proud of Benson but is unhappy nothing is being done about City ordinances, stating there were tall weeds everywhere in Benson, people are parking on City property, junk cars are left on City property and RVs are being parked on residential property with people living in them. Mr. Hill then stated there is a reason for City ordinances and the City needs to enforce them.

Cliff Deane, Chairman of the Planning & Zoning Commission, addressed Council concerning the membership of the Planning & Zoning Commission stating the Commission has always had 7 members and until recently it has not been a problem to fill the Commission with City residents. Mr. Deane then stated State law requires a 5 member Commission and feels it would easier to have a quorum with 5 members, adding the Commission had to cancel 3 or 4 meetings due to the lack of a quorum, noting 1 meeting to address a site plan for Walgreens with the company representative flying in and having to leave with the plan not being reviewed since the meeting was cancelled. Mr. Deane then stated Michelle Johnson now polls the Commissioners to see if there will be a quorum and if not, they can address it and control the situation instead of having someone fly in at their expense and then have to leave without anything being done. Mr. Deane then stated if the City continues to grow and gets larger; the Council could always increase the membership of the Commission. Mr. Deane then stated the Planning & Zoning recently updated the Zoning Regulations, which will be coming to Council in the near future and at the time the update was completed; the Commission consisted of 4 City residents and 1 non-City resident. Mr. Deane then stated the regulations are also used to directly with the Benson General Development Plan, which is under a State mandated program and is voted on and approved by the registered voters of Benson. Mr. Deane then stated having non-residents creating rules and regulations for the City when they don't have the ability to vote to approve it may cause a problem. Mr. Deane then stated he would like to see the Commission consist of City residents only, adding the Council must consist of City residents and he feels any board or commission with the authority to create laws for the City should consist of City residents. Mr. Deane then stated as far as the 1 Commissioner who is a non-resident, he feels Council should not do anything to remove her, but let her term expire. Mr. Deane then stated he recommends the proposed ordinance presented to Council and it was his hope they approve it.

Stephen Insalaco addressed the Council concerning the municipal airport. Mr. Insalaco's comments are incorporated into the minutes.

John Whiteside addressed Council concerning the request for financial assistance from the Southeast Arizona Economic Development Group and the Planning & Zoning Commission membership. Mr. Whiteside's comments are incorporated into the minutes.

Councilmember Lambert asked Mr. Nichols to investigate the allegations brought forth by Mr. Hill and report back to the Council.

CITY MANAGER REPORT:

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

- September 13, 2011 – Library Advisory Board, 4:00 p.m., City Library
- September 17, 2011 – Historic Preservation Commission, 9:00 a.m., City Hall
- September 20, 2011 – Economic Development Subcommittee, 5:15 p.m., City Hall
- September 26, 2011 – City Council Meeting, 7:00 p.m., City Hall
- September 27, 2011 – Community Watershed Alliance, 6:30 p.m., City Hall
- September 29, 2011 – Cancer Relay for Life, 5:30 p.m., Community Center

- September 23, 2011 – Community Appreciation Tailgate Party, Benson High School Football Field – Wish for Council and the Benson School Board to cook and serve meals to the those who attend.
- October 8 & 9, 2011 – Butterfield Stage Days, beginning at 9:00 a.m. with the parade, the rodeo will begin at 5:00 p.m. at the Arena Bar with fireworks at Lions Park to follow.

Mr. Nichols then stated information on I-10 closures can be found at www.azdot.gov. Mayor King then asked Mr. Nichols to place a link to the ADOT website on the City's website.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the August 8, 2011 Worksession
- 1b. Minutes of the August 22, 2011 Regular Meeting
- 1c. Appointment of Marian Buchanan to the Benson Library Advisory Board
- 1d. Appointment of John Lodzinski to the Benson Economic Development Sub-Committee
- 1e. Resolution 54-2011 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to apply for a Department of Homeland Security, FEMA's Assistance to Firefighter's Grant to fund the purchase of a New Engine Company
- 1f. Invoices processed for the period from August 16, 2011 through September 5, 2011

Councilmember Sacco moved to approve the Consent Agenda. Seconded by Councilmember Moncada. Motion passed 6-0.

2. Benson Butterfield Rodeo Committee 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 and becoming a Sponsor for the Benson Butterfield Rodeo

City Manager Glenn Nichols introduced Heather Floyd of the Benson Butterfield Rodeo Committee. Ms. Floyd addressed Council stating they are in their 11th year and the rodeo is getting stronger every year, adding the assistance of the City if greatly appreciated. Ms. Floyd then stated the City workers help 2-3 hours at most, but it makes a huge difference for them in setting up and getting things safely arranged for

the rodeo the next day. Ms. Floyd then stated the City's financial sponsorship is greatly appreciated as well. Councilmember Brooks asked about the assistance the City provides with Ms. Floyd stating the employees help set up on Friday and break down the serpentine fence on Monday, verifying there is no overtime. Councilmember Moncada asked if there were any plans for security noting at the last event at the location, the Police Department responded several times for fights and asking if the concerns regarding parking and fire access had been addressed. Ms. Floyd stated Ms. Chrissy Gold, owner of the Arena had security plans in place and the parking lot was chalked with their people maintaining the parking lot for access. Councilmember Moncada then asked about a letter from the property owner and insurance for the event with Ms. Floyd stating the property owner's letter had been submitted along with the insurance certificate for the previous rodeo to demonstrate the insurance amounts they will be obtain 30 days prior to the event, noting they were getting a quote from the same insurance company they have used for the past 10 years. Councilmember Maldonado asked about the assistance the City provides with Ms. Floyd stating the City usually provides assistance setting up the serpentine fencing and the equipment to chalk the parking lot, stating they have their own personnel to chalk the parking lot and to park vehicles. Councilmember Maldonado asked if the City provided a water truck and water with Ms. Floyd stating they only ask for access to the hydrant at the street, which has been done for several years. Mayor King then confirmed with City Manager Glenn Nichols that the rodeo committee isn't asking for anything that hasn't been done in the past. Mr. Nichols then stated the committee's letter covers what they usually ask for each year, adding the sponsorship of the rodeo is included in the City's budget. Councilmember Maldonado then asked how much the rodeo cost to put on and how much the committee had raised with Ms. Floyd stating in the past, she provided budgets and could so again, adding the cost was approximately \$16,000 to bring the rodeo to the City and to date, they have raised about \$15,000. Discussion then centered on the type of security that will be in place for the event, and whether or not they will be certified or sworn officers. Ms. Gold, of the Arena Bar, then addressed Council stating the Chief of Police recommended she use the Arizona Rangers to provide security and they will do so. Councilmember Moncada moved to approve the Benson Butterfield Rodeo Committee's request for assistance as requested in addition to the \$750.00 financial sponsorship. Seconded by Councilmember Brooks. Motion passed 6-0.

3. **Request from Southeast Arizona Economic Development Group (SAEDG) for financial assistance in the amount of \$1,500.00 to support Economic Development opportunities to the City of Benson**

City Manager Glenn Nichols introduced George Scott, SAEDG Director, who addressed Council. Mr. Scott then stated SAEDG had been in existence since 2007 and hasn't asked the Council for much, but would like to get help to work on projects in conjunction with the City to try and bring new opportunities to Benson. Councilmember Sacco asked what the financial assistance was for with Mr. Scott stating it would help defray the cost of their new website, which was done with the idea that it would bring more people to look at Benson and give them a better opportunity to sell the community to new businesses. Councilmember Brooks confirmed with Mr. Scott that SAEDG is a non-profit organization that was formed in 2007 for the benefit of trying to bring new business opportunities and jobs to the City of Benson. Councilmember Maldonado then asked Mr. Scott to name some of the projects they have worked on with Mr. Scott stating they recently worked with San Pedro Partners on their rezoning and annexation, they worked with Mr. Ernie Graves with Whetstone Ranch on his proposed solar project, they worked with the J6 Easter Mountain group on their rezoning process with the County and at this time, were working on a mining project to be discussed at a meeting with City at the end of the month. Mr. Scott stated they also assist the Solar Park Foundation with a small business center located at 288 E. 4th Street, which provides incubator spaces for small businesses, noting they currently rent 8-10 spaces. Councilmember Maldonado asked if this was the first time SAEDG asked for financial assistance with Mr. Scott confirming they may have asked the City to participate in sponsorship of an event in the past, but this was the first time, they requested financial assistance. Councilmember Sacco asked City Attorney Mike Masee about the legality of financial assistance since SAEDG was not under contract with the City with Mr. Masee stating it would be similar to any other contribution to a non-profit organization in the community. Councilmember Sacco then asked about the budget with Finance Director Jim Cox stating the economic development budget contained \$3,000, \$1,400 of which was committed to advertising, leaving \$1,600 unexpended, adding there was also \$1,100 left in miscellaneous projects under community enrichment. Councilmember Lambert

asked about the cost of the new website and if the number of hits were tracked with Mr. Scott stating it has been active since July, and they get inquiries every day, adding the website was done professionally at a cost of \$6,000. Mr. Scott then stated SAEDG is going to try and be aggressive to bring businesses to Benson, adding they are working with the City Manager and the City's Economic Development Subcommittee. Mr. Scott then stated another project they are working on is with the U of A Tech Park, trying to bring some business to the Benson area through their organization. Councilmember Lambert then stated any financial assistance would be from the taxpayers and asked Mr. Scott to tell how the residents of Benson would benefit. Mr. Scott then stated if SAEDG is successful in bringing a new business to town, all the residents benefit, adding SAEDG also works through the economic development subcommittee as a liaison for a business coming into Benson, to help them with the process, and has contacts for assistance with financing and other things businesses may need. Councilmember Lambert asked about being in competition with the Chamber of Commerce with Mr. Scott stating the Chamber isn't in the economic development business, adding SAEDG partners with the Chamber and if the Chamber Director receives a client inquiry, they work together with the City to try and make something happen, noting they work together to do the best thing for the City. Councilmember Brooks then stated he had worked with Mr. Scott and feels very strongly Mr. Scott's and SAEDG's interests aren't anything but bringing business to Benson, adding Benson needs a real manufacturer and someone strong in economic development. Councilmember Brooks then stated he had attended a few SAEDG meetings and knew they were working to bring in high tech people from U of A and he appreciates that and all the work SAEDG does. Councilmember Sacco moved to approve a financial contribution to Southeast Arizona Economic Development Group in the amount of \$1,500.00 to support economic development projects. Seconded by Councilmember Brooks. Councilmember Lambert asked where it would be taken from in the budget with Councilmember Sacco amending his motion to take the contribution from the economic development account. Amended motion was seconded by Councilmember Brooks. Motion passed 6-0.

4. **Discussion regarding a chapter in the City Code regarding the Library**

Library Director Peggy Scott addressed Council stating this chapter is asking for the library to be put back in the City Code. Councilmember Lambert asked how the library was removed from the City Code with City Clerk Vicki Vivian stating the former City Manager removed the library from Chapter 11, "Parks & Recreation" of the Code with the intention of adding a chapter for the library at a later date. Councilmember Brooks confirmed the chapter would not change the library budget, personnel or the operations of the library with Ms. Scott verifying the operation of the library would not change. City Attorney Mike Masee then addressed the Council stating the item has been presented to Council for discussion and the opportunity to provide feedback or any changes on the proposed chapter before bringing the final document to Council for adoption. Mayor King stated the policies hold people accountable, which is important and thinks the chapter was written very well. Mr. Masee then stated he had worked on the proposed chapter with the Ms. Scott, who was able to research many other jurisdictions, adding the proposed chapter also includes current library policies and standards of conduct, eliminating free-floating policies or standards. After further discussion, with no changes being indicated, Councilmember Lambert directed Staff to bring back the proposed chapter for adoption into the City Code. Council concurred.

5. **Discussion and possible action regarding Ordinance 559 of the Mayor and Council of the City of Benson, Arizona, amending Ordinance 225; decreasing the membership of the Planning & Zoning Commission from seven (7) members to five (5) City resident members**

Building Official Luis Garcia addressed Council stating this item pertains to the Planning & Zoning Commission membership and was brought forward at the request of Mayor King and Councilmember Moncada. Mr. Garcia then stated at a previous City Council meeting, there appeared to be a consensus that the members of the Planning & Zoning Commission be filled with Benson residents, adding Ordinance 559 proposes a 5 member Commission and mandates all Commissioners reside within the corporate limits of Benson. Mr. Garcia then stated during the last Council discussion of this item, a question arose regarding how the ordinance would affect the existing Commissioner who is not residing in the City limits, adding this proposal clarifies the issue, stating if a Commissioner is fully seated at the time of the adoption of this

ordinance, that said Commissioner would be permitted to serve the remainder of their appointment. When the term expires, a new Benson resident would then be appointed. Councilmember Brooks stated, he personally would like to see a 7 member Commission, but was not sure the Commission would be able to be filled with City residents, adding if that were the case, he would be in favor of looking outside the City limits, if needed, but would want a majority of the Commission to be Benson residents. Councilmember Maldonado stated he felt only residents should be on the Commission.

Councilmember Moncada stated it was his understanding we couldn't fill a 7 member Commission with City residents, but could do so with a 5 member Commission and he feels it is more important to have all City residents, adding he agrees with Councilmember Maldonado that decisions made for the City should be made by City residents and while he has friends and family that live outside the City limits who may serve well on boards and commissions, he feels if they would want to make those decisions, they should move inside the City limits, as the Councilmembers are required to do. Councilmember Moncada then stated since we could fill a 5 member Commission with all City residents and he feels it is more important to have only City residents, he feels a 5 member Commission is more appropriate and would support the reduction to result in the Commission being filled with only City residents. Mayor King stated when he was on the Planning & Zoning Commission, there were times it was difficult to maintain a full Commission with residents, and after reading through the ordinance and talking to Staff, he feels the Commissioners should be composed only of residents since the Commission makes decisions that affect City residents, adding he also believes the number of Commissioners should be lowered to 5. Councilmember Sacco asked about the terms of the current Commissioners and what applications for the Planning & Zoning Commission were on file with Mr. Garcia stating the terms of the current Commissioners were staggered and besides the two non-resident Commissioners who were appointed, there is 1 non-resident application on file. Councilmember Sacco stated his preference would be for the Commission to consist of Benson residents, adding he didn't think there would be a problem finding residents to serve on the Commission. Councilmember Sacco then asked how many applications were on file to replace any Commissioner whose term expired and chose not to be reappointed. Mr. Garcia stated if a term expired with a City resident on the 5 member panel, we would be mandated to replace them before any business could take place, so applications are being taken and a form letter will be sent out acknowledging their application and informing them we will notify them when a position opens up, adding at that time, Staff would also advertise for applications. Councilmember Sacco asked if there were enough applications on file to have 7 City resident Commissioners with Mr. Garcia stating the applications on file were not from City residents, adding there are applications on file to fill the Commission with non-City residents, but not with City residents. Councilmember Sacco then discussed the need to have additional applications on file to replace those Commissioners who term expired and did not choose to renew their appointment with Mr. Garcia stating he would be actively petitioning for activity within the Planning & Zoning Commission, inviting applicants to attend meetings on a regular basis, so they could understand the ins and outs of the activities the Planning & Zoning Commission has. Councilmember Sacco then asked Planning & Zoning Chairman Cliff Deane how many Commissioners have approached him, indicating they don't wish to serve on the Commission any longer with Mr. Deane stating no Commissioner have contacted him stating such. Councilmember Sacco then stated he would like the Commissioners' term expiration dates, adding that information has an impact on the item. Councilmember Lambert stated he is not opposed to having the Commission consist of City residents, but is concerned if the Commission is reduced to 5 members and 1 person decides they want to resign, the Commission would not be able to conduct any business until someone is appointed, due to State statutes that require the Commission have at least 5 members. Councilmember Lambert then stated if the Commission remains at 7 members, the Commission can still conduct business even if there are 1 or 2 vacancies. Councilmember Lambert then stated he had researched and found only 1 meeting in the last 12 months that had to be cancelled due to not having a quorum of Commissioners present, adding the other problem with attendance in the past had been 2 Commissioners who did not attend meetings, noting they have since been replaced. Councilmember Lambert then stated if the Council would like to change the Commission to consist of City residents, he would agree, but the ordinance was written to reduce the Commission from 7 to 5 and he was strongly against it. Councilmember Moncada stated he would like to fill the Commission with 7 City residents, but thinks Council needs to decide what is more important, having 7 Commissioners or having City residents, adding

he feels it's more important to have only City residents on the Commission and if the Commission needs to be reduced to 5 members to do so, he supports the reduction.

Councilmember Brooks stated he agreed with Councilmember Moncada, and he would prefer the Commission consist of all City residents, but also feels that 7 people have a much better mind of getting things done properly and he would rather see a larger group of people on the Planning & Zoning Commission instead of 5. Councilmember Brooks then moved to keep the Planning & Zoning Commission at 7 members, with priority given to all applications that are City residents and to have a minimum of 70% (5 of the 7 members) of residents of the City of Benson on the Commission. Discussion then centered on the proposed ordinance and the language needing to be changed to reflect Councilmember Brooks' motion. City Attorney Mike Masee then addressed Council stating under the proposed ordinance, this would result in the following changes: In Section 1, changing "five (5) members, all of whom shall be residents of the City of Benson" to "seven (7) members, 5 of whom shall be residents of the City of Benson, with priority to any City applicants." Mr. Masee then confirmed with Councilmember Brooks this was consistent with his motion. The motion was then seconded by Councilmember Sacco. Mr. Garcia then addressed the Council stating he would like to ask for a legal opinion regarding a quorum on a 7 member Commission staffed with only 5 Commissioners. Mr. Masee then stated whenever there is a body that is created by statute, such as the Planning & Zoning Commission, there is some control of certain procedures by statute, and in this case, defines that a quorum is based on the membership authorized, not necessarily filled, so if there were a 7 member board, a quorum would be 4 members, even if there were 2 vacancies. Mayor King then stated there was a motion and second on the floor and called for a vote. Motion failed 6-0. Councilmember Moncada then moved to approve Ordinance 559. Seconded by Councilmember Maldonado. Motion failed 3-3 with Councilmembers Brooks, Lambert and Sacco voting nay.

6. **Resolution 55-2011 of the Mayor and Council of the City of Benson, Arizona, permitting the public display of fireworks during the Butterfield Stage Day Festivities**

Mayor King asked if there was any discussion. After no discussion, Councilmember Brooks moved to approve Resolution 55-2011. Seconded by Councilmember Maldonado. Motion passed 6-0.

7. **Resolution 56-2011 of the Mayor and Council of the City of Benson, Arizona, to accept the United States of America Federal Aviation Administration Grant for Improvements at the Benson Municipal Airport (AIP 3-04-0077-15-2011)**

Public Works Director Brad Hamilton addressed Council stating he would like to address this item and Item 8 at the same time, since they are concerning the same issue. Mr. Hamilton then stated Resolution 56-2011 accepts the grant and the next item is Resolution 57-2011, authorizing the construction agreement with the contractor to perform the repair. Mayor King asked if there was any discussion. After no discussion, Councilmember Sacco moved to approve Resolution 56-2011. Seconded by Councilmember Moncada. Motion passed 6-0.

8. **Resolution 57-2011 of the Mayor and Council of the City of Benson, Arizona, authorizing the City to enter into an Agreement with K E & G Construction, Inc., for the Runway Repair 10/28 of the Benson Municipal Airport in an amount not to exceed \$116,194.95**

Councilmember Sacco asked how many bids were received for this project and if the City had worked with the contractor with Public Works Director Brad Hamilton stating 3 bids were received and KE&G had done a lot of work in Sierra Vista, but he hasn't worked directly with them since he has been with the City. Councilmember Maldonado asked if KE&G was authorized for aviation work, with Mr. Hamilton stating they were found to be the lowest qualified bidder. Councilmember Brooks confirmed the lifetime warranty on materials and the 2 year warranty on workmanship, and then asked if the City had used the outside engineer previously with Mr. Hamilton confirming the City had. Councilmember Brooks then asked Mr. Hamilton about the process, noting the plan calls for the contractor to remove material down approximately 22" to the solid surface and fill with 16" of borrow material and the balance being AB. Mr. Hamilton

stated after the material is removed, the area will be tested, scarified, and built back up, noting the 16" of borrow material (dirt) will be tested to find its maximum compaction to make sure it's suitable and then 6" is spec AB, using FAA specs will be the top material. Mayor King asked if this process was an improvement over the last construction process with Mr. Hamilton stating this process was approved by the City, by ADOT and by the FAA and they believe it is the solution to the construction problem if they don't find anything else, noting the testing doesn't indicate anything else. Mayor King asked if something would be done to keep the sides from being washed out with Mr. Hamilton stating the plan calls for 10' shoulders. Councilmember Brooks then asked if the contract was contingent on the City receiving the grant with Mr. Hamilton verifying if the funding did not come through, a stop work order would be issued and the project would wait. Councilmember Moncada then moved to approve Resolution 57-2011. Seconded by Councilmember Sacco. Motion passed 6-0.

9. **Resolution 58-2011 of the Mayor and Council of the City of Benson, Arizona authorizing the City to enter into an agreement with Progressive Roofing for the replacement of the roof of the Benson Fire and Police Headquarters in an amount not to exceed \$81,765.00**

Mayor King stated this project was discussed during the budget meetings. Councilmember Moncada then asked if the material used would be R30 instead of R18 with Public Works Director Brad Hamilton stating R30 was his recommendation and if Council approves the Resolution, that's what will be done. Councilmember Brooks asked if we had any information or background on Progressive Roofing with Mr. Hamilton stating Progressive Roofing has done multiple municipal buildings for Tucson and since we have an Intergovernmental Agreement (IGA) with Tucson for cooperative purchasing, we can utilize that contract to get their prices and contractors. Mr. Hamilton then stated Progressive Roofing had no complaints and the City of Tucson was very happy with their work. Councilmember Moncada asked about utilizing the contract and getting other bids with Mr. Hamilton stating he did contact another company and interviewed both on the type of roofing system and found the Progressive Roofing system better, adding since the City of Tucson had already bid the contract, we didn't have to go out for multiple bids. Councilmember Maldonado moved to approve Resolution 58-2011. Seconded by Councilmember Moncada. Motion passed 6-0.

10. **Discussion and possible action on an audit proposal for the fiscal years ended June 30, 2012, 2013 and 2014 from Colby & Powell, PLC, the City's current audit firm**

Finance Director Jim Cox addressed Council stating Colby & Powell, PLC have provided public audit services for the City of Benson for the past 17 years and has proposed a fixed-fee bid for annual audit services in the amount of \$17,000 per year for the fiscal years ended June 30, 2012, 2013 and 2014. Mr. Cox stated there would be an additional fee of \$2,000 per year if Federal single audits are required, adding they will be required, just as it was this year. Mr. Cox then stated they recently completed the audit field work for this year and are having a separate Federal audit opinion, because the City received Federal grant funds in excess of \$500,000 during the past year, adding he anticipates that will continue over the next 3 years. Mr. Cox then stated the City has maintained a very solid relationship with Colby & Powell, during his tenure as Finance Director, adding the firm members are competent, efficient, professional and very consistent. Mr. Cox then stated over many years, he had been on the other side of the audit and felt he was in a good position to judge the competency of our firm and was very pleased. Mr. Cox then stated all auditing firms perform essentially the same type of service; they fulfill the City's statutory requirement to have an annual audit, but the difference between firms is in the level of service they provide and price. Mr. Cox then stated Colby & Powell ranks very high in service and the price they have quoted is extremely reasonable, adding he continually questions and talks with other firms throughout the year and talks to fellow Finance Directors to find how they are with their accounting firms and what kind of prices they are being charged. Mr. Cox then stated based on his informal surveys, if the City were to switch audit firms, the cost would be closer to \$28,000 a year instead of the proposed \$17,000 a year. Mr. Cox then stated for comparison, the City has had Colby & Powell, for the last 3 years and the audit fee has been \$16,800 per year and they've offered to continue doing the same service for a \$200 annual increase, adding we now have a lot more to audit with the addition of the golf course and transit funds. Mr. Cox then stated another

consideration that enters into his recommendation to retain Colby & Powell during the next 3 years, is he will be retiring and one of the big things to be concerned about is consistency in the application of the finances of the City and he feels keeping the same audit firm would be a great service to his successor, who will have a lot more contact with the auditors throughout the year than he does, simply because he is familiar with what's going on. Mayor King stated he had an opportunity to speak with Mr. Usevitch of Colby & Powell, who asked if the Mayor and Council had any items they felt the audit should focus on and was very pleased and impressed with their work and dedication. Councilmember Brooks moved to approve the audit proposal for the fiscal years ended June 30, 2012, 2013 and 2014. Seconded by Councilmember Sacco. Motion passed 6-0.

11. **Resolution 59-2011 of the Mayor and Council of the City of Benson, Arizona, declaring as a Public Record that Certain Document filed with the City Clerk and entitled "The 2010-2011 Amendments to the Tax Code of the City of Benson"**

Finance Director Jim Cox addressed Council stating Council held a public hearing on the amendments to the City's tax code on August 22 and the item is now before Council for action. Councilmember Brooks asked about the wind generating devices being included with solar energy devices and the possibility of classifying wind generators to be a taxable item with Mr. Cox stating the amendment is consistent with the original bill passed by the State legislature about 4 years ago, adding the City doesn't have the ability to change the annual amendments that are addressing State legislative action. Mr. Cox then added the specific amendment does nothing more than extend the tax credit for solar energy devices from January 1, 2011 to January 1, 2017. City Attorney Mike Masee then addressed Council stating when the City receives the amendments from the League of Arizona Cities and Towns, they have already gone through the process of being reviewed by the Model City Tax Code Commission, who reviews the tax treatment of the State legislation and forwards the amendments to cities to adopt them, adding we don't have the ability to amend them, but our obligation is to adopt them to keep our tax code consistent and uniform with all the other City tax codes in the State. Councilmember Moncada then moved to approve Resolution 59-2011. Seconded by Councilmember Maldonado. Motion passed 6-0.

12. **Ordinance 560 of the Mayor and Council of the City of Benson, Arizona, relating to the Privilege License Tax, adopting "The 2010-2011 Amendments to the Tax Code of the City of Benson" by reference, establishing an effective date; providing for severability and providing penalties for Violations**

City Attorney Mike Masee addressed Council stating when the City has standard amendments, the document is declared a public record by a Resolution and then present an ordinance to adopt the amendments by reference. Mr. Masee then stated this 2-step process saves the City a considerable amount of money in publication costs since every ordinance has to be published. Councilmember Brooks asked if other cities adopted these amendments with Mr. Masee stating he believes every city in Arizona, with the possible exception of Phoenix and Tucson, have adopted the model city tax code, so when the amendments come out, all those cities adopt them. Councilmember Brooks then spoke about the collection of taxes, audit authority and enforcement for those who are not paying taxes, asking if the State had the authority to punish people for not paying taxes and if the amendments changed the procedures that are in place. City Attorney Mike Masee stated the State currently has the authority to perform audits and would have the authority to enforce taxes with penalties and interest and the amendments don't address audit or enforcement provisions at all, but only address how certain items are to be dealt with from a tax point of view. Mr. Cox then addressed Council stating the State tax code and the City tax code are very similar, but there are some glaring differences, such as food sales tax, which is taxed in the City of Benson but is not taxed at the State level. Mr. Cox then stated the City has an Intergovernmental Agreement with the State Department of Revenue for them to collect taxes and perform our audit services, but the amendments have nothing to do with that agreement. Mr. Cox then stated each year the State Legislature passes new tax laws, gives new tax incentives and credits, such as the solar devices discussed earlier, then the Model City Tax Commission that Mr. Masee spoke of, reviews those laws and makes changes to our Model City Tax Code and the amendments are sent to the cities to enact or adopt them. Councilmember Brooks asked if the

City currently has penalties in place for those not paying City taxes, with Mr. Cox confirming the there are penalties in place that mirror what every other City charges, interest and penalties on delinquent taxes, but with the IGA with the State, the authority to enforce those remain with the Department of Revenue, not the City. Councilmember Brooks thanked Staff for the clarification. Councilmember Lambert then moved to approve Ordinance 560. Seconded by Councilmember Moncada. Motion passed 6-0.

13. Review of City Finances with emphasis on June 30, 2011, financial results and the City's financial position at June 30, 2011 and discussion of sales tax revenues and projected future net revenues

Finance Director Jim Cox addressed Council stating he would be reviewing the financial highlights of the fiscal year ended June 30, 2011, adding the information is based on internal financial reports, not the audited financial statements that will be issued during late October. Mr. Cox then began with citywide financial highlights, stating our unrestricted cash position decreased by \$745,000 and is currently sitting at approximately \$2.3 million, however, the City had a large receivable in the amount of \$430,000 outstanding as of June 30, that was received on July 2, so the decrease was by a much smaller amount and was close to what it was last year. Mr. Cox then stated fund balances overall citywide decreased by \$535,000 during the fiscal year and the glaring difference between the two fiscal years, beside the fact that we added two new funds, is that this year, the City made a \$500,000 payment to Wal-Mart for the water infrastructure Wal-Mart paid for, adding the City is to pay this back over a period of years and he had tried to work with Wal-Mart to defer an annual payment of \$250,000 but after being unable to come to an agreement, the City was required to make two payments in the same year. Mr. Cox then stated trend wise, Fiscal Year 2011 very similar to Fiscal Year 2010, except for the effects of the two new funds and the bond issue that was completed in July of last year. Mr. Cox then stated by way of comparison, the Fiscal Year 2012 budget and projections are very similar to Fiscal Year 2011, indicating our trends have been similar for the past 4 years.

Mr. Cox then stated overall, the City's revenues are up \$768,000 from Fiscal Year 2010 with revenues of \$10.5 million and we can look at the new funds to see where the difference came from; transit grants of \$450,000 and golf course revenues of \$613,000. Mr. Cox then stated our State shared revenue decreased by \$151,000 and will continue to decrease by another \$80,000 this year, adding construction sales tax also decreased by \$242,000 compared to Fiscal Year 2010 due to construction inactivity. Mr. Cox then stated personnel total costs are \$4.7 million, which is essentially identical to Fiscal Year 2010, which he finds remarkable considering the City added the golf course and all the attendants' salaries along with the transit system and its significant salaries. Mr. Cox then stated the golf course and transit system added \$335,000 to our personnel costs; however there were decreases due to vacancies. Mr. Cox then noted the presentation declares the personnel costs in the General Fund decreased by \$239,000, but actually decreased by \$141,000. Mr. Cox then stated in the Enterprise funds, wages decreased by \$189,000 due to strategic retirements that created vacancies that were not filled. Mr. Cox then stated direct operating costs were \$3.6 million, up \$47,000 from Fiscal Year 2010, adding it is amazing, given the fact that we added two significant cost centers. Mr. Cox then stated other General Fund costs decreased by \$259,000, noting this astounded the auditors since they felt the City ran at absolute bare bones last year, adding they performed extra auditing to see how the City was down even further. Mr. Cox then stated the main reason is City staff has continued the exact policies as in prior years, of being very careful with spending, but also there were some allocations out of the General Fund and into the Transit Fund and into the Golf Course Fund. Mr. Cox then stated capital costs were \$1.7 million, noting \$1 million of that was in grant funding and \$430,000 was from bond proceeds, so it didn't affect our day to day cash flow.

Mr. Cox then moved to the General Fund stating revenues were \$4.54 million and are down \$239,000 from Fiscal Year 2010 and are tied to City Sales tax. Mr. Cox then stated the State Shared revenue is down \$151,000 from Fiscal Year 2010 along with a couple of other categories that are down significantly. Mr. Cox then addressed expenditures in the General Fund stating personnel costs were \$3.13 million, down \$142,000 from Fiscal Year 2010, adding this was due to reallocation of salaries out of the General Fund, primarily in the Finance Department, to the Transit Fund and the Golf Course Fund. Mr. Cox then stated operating costs were \$1.3 million, which is down \$259,000 from Fiscal Year 2010, due to the City not

having a lot of unusual expenditures that we had in the prior year. Mr. Cox then stated the City's fund balance decreased \$112,000 in Fiscal Year 2011, compared with the previous year, the General Fund decreased by \$264,000, noting those decreases are very acceptable given the economy we are working within.

Mr. Cox then addressed the Enterprise funds stating they warrant a cost of services study. Mr. Cox then stated the Gas Fund is down \$100,000 for the year, adding that's primarily due to lower sales, but the City needs to study the entire cost structure and how we're billing for our services. Mr. Cox then stated the Water Fund is looking healthy; up \$98,000 for the year, noting in the prior year, it was up almost the same amount. Mr. Cox then stated the increase includes \$87,000 worth of capital improvements in the Water Fund. Mr. Cox then stated the Wastewater Fund is up \$84,000 for the fiscal year, but that includes an unusual project with Apache Nitrogen that yielded an extra \$79,000 in revenues without significant attendant costs, which we can't expect every year.

Mr. Cox then moved to the Transit Fund stating it was down \$60,000 for Fiscal Year 2011, but that was due to the reimbursement delay between spending and having the grant reimbursement, adding it will be at breakeven when the audited financial statements are issued. Mr. Cox then stated expenses were a total of \$406,000 in capital startup, mainly for the buses, and then added the City will be spending approximately \$200,000 in the current fiscal year that is grant funded to install a bus shelter and shelter at the bus stops. Mr. Cox then stated the City is in its second year of transit grant funding and noted our grant application for this year ranked number 1 in the State, crediting the efforts of Denise Wolford. Mr. Cox then stated operations wise, the Dial-A-Ride program is operating very smoothly and the fixed route, which began on April 4, is a work in progress with different areas being contracted and expanded, adding adjustments to the route schedule will be an ongoing project. Mr. Cox then stated we have hired and trained 2 new drivers this year and need another backup driver to handle times when our 2 main drivers are not available.

Mr. Cox then addressed the Golf Course Fund stating financially, it came out right where we expected with a loss of \$17,000 for Fiscal Year 2011, adding the City spent \$125,000, primarily to refurbish club house with other strategic capital investments required due to very old equipment. Mr. Cox then stated operationally, the golf course, in his opinion, is in the best shape it's ever been in, with the exception of a fungus problem on the greens that is being attended to and should clean up as soon as the monsoons are gone. Mr. Cox then stated the restaurant is running very well and is certainly carrying its own weight at this point in time, adding it is very popular in the City and is a fine addition to the community. Mr. Cox then stated the challenges for the golf course are on the human side, stating we need to take the next step in customer service, adding we do fairly well now, but have a way to go in that area and that's going to be something we really concentrate on in the next year. Mr. Cox then stated we know the golf course has to stand by itself going forward, but in his opinion, he feels we are almost a year ahead of schedule in getting there and given some expansion in the local economy and more people who could use the golf course, it will be successful.

Mr. Cox then stated he would give a summary of the state of finances, adding from the presentation, we could see the State is in a consumer driven, very modest recovery, while the City is going in the other direction, adding right now our sales tax collections are on a bit of a downward path, averaging about \$15,000 a month lower collections than we had a year ago at this time. Mr. Cox then stated we can see some specific challenges that are present, mainly on Highway 90 where the construction is going on and we've had several businesses shut down for a while. Mr. Cox then stated overall the City is very financially sound at this point in time, with a miscellaneous operating funds balance well over \$2 million and almost exactly \$2 million left of bond funds, providing plenty of backup as capital needs arise.

Mr. Cox then stated overall, the City is performing at the same level as last year and we expect the same level this year. Mayor King stated after the J6 bridge is open, hopefully, we will see our sales tax collections increase, with people in that area coming back to Benson instead of avoiding the construction and extra mileage by driving to Tucson. Mr. Cox then reviewed sales tax showing they confirm the City is running consistently below what we did last year, which is happening for the first time since 2007-2008.

Mr. Cox then stated general fund sales tax collections are down slightly, construction sales tax is terrible, but is due to the fact there has been very little construction activity. Councilmember Lambert asked about the spike in construction sales tax with Mr. Cox stating this was due to a repayment of a construction sales tax adjustment that was claimed by a large construction company 2 years ago, adding Benson blew the whistle on them and they're finally paying it back to Benson, along with a lot of other cities. Mr. Cox then stated bed taxes are also lower than it was last year and the transaction privilege sales tax collections also confirm the City is down this year, but if we look at the State level, we see they have been slightly better for 8 months in a row, which is encouraging and is a trend he hopes to see continue.

Councilmember Moncada asked where the \$17,000 loss in the golf course comes from with Mr. Cox stating it comes from the General Fund, but by the time the audited financial statements are issued with all our accruals, the Golf Course Fund will be almost exactly at zero, adding there will probably have a small excess in the next year and those funds will roll back into our general checking account. Councilmember Brooks asked about the Apache Powder project in the Wastewater Fund with Public Works Director Brad Hamilton stating Apache Powder had some problems with their disposal system for their wastewater, so they trucked it to the wastewater treatment plant and paid us for the disposal.

Mayor King then stated his expectation is for the City to continue to work hard, to save as much money as we can, to keep the City running as tight as we can, and hopefully, at this time next year, we will see something great again, thanking Staff for their work and dedication. Mr. Cox thanked the Mayor and Council, adding when good things start to happen, everything will move in the right direction, but the City is running "in place" very well these days.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Sacco moved to adjourn at 8:58 p.m. Seconded by Councilmember Lambert. Motion passed 6-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk

12 September 2011

**Call to Public Address,
Regular Meeting of the City Council,
City of Benson Arizona**

Stephen Insalaco

3280 West Pinto Place,

J-Six Ranch

I am the Airplane Owner's and Pilot Association (AOPA) Airport Support Network (ASN) volunteer for Benson Municipal Airport

Honorable Mayor, and Council Members;

I wish to address you this evening concerning agenda items 7 and 8, FAA airport improvement grant AIP 3-04-0077-15-2100, and construction agreement with K E & G Construction Inc, respectively for runway 10/28 improvements. The airport improvement grant award comes none too soon, and I think that I speak for the entire airport community of users, that we appreciate the grant funds from the federal government for this cause, and the subsequent matching grant pieces from the State of Arizona and the City of Benson. Benson has done a great job of matching their portion of the grant awards; the city has always been there for the airport in this fashion. On behalf of the audience listening, FAA AIP grants typically cover 95% of capital airport improvement projects, typically matched by 2.5% state funds and 2.5% airport sponsor funds; in our case provided by the City of Benson.

Reconstituting runway one-zero and two-eight to its original 4000-foot length should be viewed as a "repair," will add an increase margin of safety to airport operations; as would eliminating the need for back-taxi operations on the runway. In addition, returning the airport to valid night-time operations also enhances airport operations and the future business outlook for the airport. In hindsight to the problem of this runway damage, historical pooling of standing water on taxiway surfaces and mud flowage into hangars, I would encourage stronger contract verbiage in construction and engineering oversight contracts on the idea of warrantee issues for future work performed.

As you move forward with these agenda items this evening, and I hope that you will, please recall that the revised Airport Master Plan (AMP) calls for lengthening the runway to 6800-feet and improving the runway foundation to category B-II operations. This should be viewed as an important airport improvement project, conducted as soon as possible; and coupled with the addition of more hangar space, above-ground self-serve fueling, and airport road improvements. I would urge you to consider these as the primary future airport improvement projects following these current runway repairs.

In the absence of an airport advisory board body, these improvements are viewed by myself and the using community, as essential to the future economic growth of the airport. In addition, these improvements will increase airport operations by increasing the number of based aircraft at the airport, by encouraging more aircraft to land here for refueling operations, and by permitting larger aircraft to operate from the airport.

These ideas should be perceived as very important to the community, because as the Federal government tightens its belt on federal funds, future AIP grant awards will be determined more by need, and less as a regular annual award. Therefore, we want Benson to remain high on the list of "need."

In addition, as the City of Benson moves forward with the runway repair and the previously mentioned airport improvement projects, the City of Benson should encourage the U.S. Forest Service to return their operations to Benson. They want to be here because Benson is central to the Coronado National Forest District, but cited short runway length and poor road conditions as the reasons for leaving Benson Municipal Airport. Hosting the U.S. Forest Service at Benson Municipal not only provides the surrounding region with more aerial fire protection, but also helps illustrate Benson as a significant regional force in providing important regional emergency response services.

I thank you for your time.

Sincerely,
Stephen C. Insalaco Jr.

Mr. Mayor, Councilmembers, Ladies and Gentlemen, GOOD EVENING!
My name is John L. Whiteside, and I live at 1091 West Possum Lane.

ITEM 3: Southeast Arizona Economic Development Group is the reason that the Benson Economic Development Subcommittee came into existence in the first place. They certainly aren't bashful about asking you to fund their operations... I say NO!!! They are not part of Benson City Government. Even so, we made the mistake of giving them a seat on the Economic Development Subcommittee. If you want to spend the money, give it to the Subcommittee, where it can do some good. Common sense says you don't fund your competitors.

ITEM 5: Whoa!! We just passed an ordinance allowing for a non-resident minority on the Planning and Zoning Commission; which was a very wise move. We now have enough applicants to fill all the seats. Let's give this a fair trial for a year or two and see how it works. The non-residents should have a broader long range viewpoint, which we badly need. Given that viewpoint, they can be expected to be less or non susceptible to power driven "undue influences". We just fixed it. Let's try the fix and see how it works!

John L. Whiteside
586-9085