City of Benson
City Council Communication

Regular Meeting **September 8, 2014**

To: Mayor and Council Agenda Item # 3

From: Vicki Vivian, CMC, City Clerk

Subject:

Resolution 25-2014 of the Mayor and Council of the City of Benson, Arizona, canvassing, declaring and adopting the results of the Primary Election held on August 26, 2014

Discussion:

This Resolution is a requirement that must be completed no later than 20 days after the election. Resolution 25-2014 officially approves the canvass of the votes cast in the August 26, 2014 Primary Election as follows:

1,022 Ballots Cast

For Mayor	Votes Received
King, Sr., Toney D.	509
Moncada, Chris	464
Write In	10
Under Votes	36

For Councilmember – 4-year term	Votes Received
Brooks, Ron	422
Konrad, Joe A.	588
Lambert, David	497
McGoffin, Lori	565
Sacco, Al	394
Write In	11
Under Votes	586

For Councilmember – 2-year term	Votes Received
Boyle, Patrick	673
Write In	20
Under Votes	327

There have been many comments and questions regarding the calculations used to determine candidates who are considered "seated" in the Primary Election. When the State legislature combined elections, they amended the law to allow cities and towns to establish a different method of calculating a majority of the votes cast at a Primary Election. They did this because the statute (before the amendment) required the Clerk to calculate the majority using the total number of ballots cast in the election regardless of whether the voters were in the City or not. The amendment allowed the City to calculate the majority using the number of votes that were cast for the office of the Mayor on the ballot. Our City Council chose to approve this amendment and did so with the passing of Ordinance 566.

The problem then arose with cities and towns that don't have a directly-elected Mayor. There was no provision allowing them to change how they would calculate a majority of votes or ballots cast to determine if any candidates were seated at the Primary Election. Housebill 2126 (HB 2126) addresses this issue and supersedes our City ordinance (Ordinance 566). This new law is now in effect; the Governor signed it on April 25 and it includes a retroactive clause making the provisions effective September 12, 2013.

Communication from the League of Arizona Cities & Towns confirms this:

> ***For 2014, those ordinances are suspended and the new law will apply. The new law "notwithstands" the subsection of A.R.S. § 9-821.01 which includes the provision allowing for a local ordinance to base the calculation on the vote for mayor. Just leave your local ordinance on the books for now but follow the provisions of the new law.***
>
> ***During the 2015 session, the League hopes to make the new provision permanent for all future elections. If that occurs, then we will recommend the repeal of any local ordinances on calculation of who wins at the primary.***

HB 2126 now determines the way the votes will be calculated at Primary Elections in 2014; the steps to calculate the majority is 1 – add the votes cast for all candidates for an office whose names were lawfully on the ballot for that office, 2 – divide that sum by the number of seats to be filled for that office and 3 – divide that number by 2 and round up to the highest whole number. If someone receives more than this number of votes, they would be considered "seated" at the primary election. If there were to be more candidates that received higher than this number (50%+), we would declare those candidates who receive the highest number of votes equal or over that number to fill the number of seats.

Some things to note: In our election, there were no qualified write-in candidates, so do not count write-in votes when adding votes cast for candidates whose names were lawfully on the ballot. For the Mayoral race and for the open 2-year term, the total number of votes added for candidates would be divided by 1 (which is the number of seats to be filled for those), then divided by 2 and rounded up to determine the 50%+. In the 4-year terms race, the votes for the 5 candidates would be added, then divided by 3 (which is the number of seats to be filled for that office), then divided by 2 and rounded up to determine the 50%+.

By using this calculation, the following candidates are considered seated:

Mayor	Toney D. King, Sr.
Councilmembers (4-year terms)	Joe A. Konrad
	Lori McGoffin
	David Lambert
Councilmember (2-year term)	Patrick Boyle

Due to all the open seats being filled, no General Election is needed.

Staff Recommendation:

Approval of Resolution 25-2014

RESOLUTION 25-2014

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, CANVASSING, DECLARING, AND ADOPTING THE RESULTS OF THE PRIMARY ELECTION HELD ON AUGUST 26, 2014

WHEREAS, on the 26th day of August, 2014, a primary election of the qualified electors of the City of Benson, Arizona, was held for the purpose of electing one (1) mayor for a two-year term, three (3) councilmembers to each serve four-year terms and one (1) councilmember to serve a previously vacated two-year term; and

WHEREAS, the election returns, attached hereto as Exhibit "A" and incorporated herein by this reference, have been presented to and have been canvassed by the Mayor and City Council; and

WHEREAS, the election returns as canvassed show that there were 1,022 ballots cast; and

WHEREAS, the election returns as canvassed show the number of votes cast for each candidate is as follows:

FOR MAYOR	VOTES RECEIVED
KING, SR., TONEY D.	509
MONCADA, CHRIS	464
WRITE IN	10
UNDER VOTES	36

FOR COUNCILMEMBER – 4-YEAR TERM	VOTES RECEIVED
BROOKS, RON	422
KONRAD, JOE A.	588
LAMBERT, DAVID	497
McGOFFIN, LORI	565
SACCO, AL	394
WRITE IN	11
UNDER VOTES	586

FOR COUNCILMEMBER – 2-YEAR TERM	VOTES RECEIVED
BOYLE, PATRICK	673
WRITE IN	20
UNDER VOTES	327

WHEREAS, pursuant to Arizona law (Housebill 2126, signed by the Governor on April 25), at the Primary Election the candidate(s) receiving a majority of all votes cast for the office (s)he is running for shall be declared to be elected to the office sought; and

WHEREAS, it appears that Toney D. King, Sr. received a number of votes constituting a majority of all the valid ballots cast for the office of Mayor and should be deemed elected in accordance with Arizona law; and

WHEREAS, it appears that Joe A. Konrad received a number of votes constituting a majority of all the valid ballots cast for a 4-year term Councilmember and should be deemed elected in accordance with Arizona law; Lori McGoffin received a number of votes constituting a majority of all the valid ballots cast for a 4-year term Councilmember and should be deemed elected in accordance with Arizona law; David Lambert received a number of votes constituting a majority of all the valid ballots cast for a 4-year term Councilmember and should be deemed elected in accordance with Arizona law; and

WHEREAS, it appears that Patrick Boyle received a number of votes constituting a majority of all the valid ballots cast for a 2-year term Councilmember and should be deemed elected in accordance with Arizona law; and

WHEREAS, there is no remaining office of Mayor or Councilmember that was not filled by a number of votes constituting a majority of all the valid ballots cast for each office.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, as follows:

SECTION 1. That the total number of ballots cast at the primary election was 1,022.

SECTION 2. That Toney D. King, Sr. is declared to be elected to the office of Mayor as per the above discussed Election, to be seated in accordance with Ordinance 565 passed on September 23, 2013; Joe A. Konrad is declared to be elected to the office of Councilmember for a 4-year term as per above discussed Election, to be seated in accordance with Ordinance 565 passed on September 23, 2013; Lori McGoffin is declared to be elected to the office of Councilmember for a 4-year term as per the above discussed Election, to be seated in accordance with Ordinance 565 passed on September 23, 2013; David Lambert is declared to be elected to the office of Councilmember for a 4-year term as per the above discussed Election, to be seated in accordance with Ordinance 565 passed on September 23, 2013; and Patrick Boyle is declared to be elected to the office of Councilmember for a 2-year term as per the above discussed Election, to be seated in accordance with Ordinance 565 passed on September 23, 2013.

SECTION 3. That there is no remaining office of Mayor or Councilmember to be elected, therefore the General Election for the City of Benson will not be held on November 4, 2014.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 8th day of September, 2014.

_____
TONEY D. KING, SR., Mayor

ATTEST:

_____
VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

_____
MESCH, CLARK & ROTHSCHILD
by GARY J. COHEN
City's Attorney

EXHIBIT “A”

OFFICIAL RESULTS

COCHISE COUNTY ELECTIONS & SPECIAL DISTRICTS

1415 Melody Lane, Bldg A • Bisbee, Arizona 85603
OFFICE: (520) 432-8970 • FAX: (520) 432-8995

September 2, 2014

Vicki Vivian
City Clerk
City of Benson
120 W. 6th Street
Benson, AZ 85602

Dear Ms. Vivian:

Enclosed are the official election results for the Primary Election held on August 26, 2014 as well as the invoice for Election Services. If you have any questions please do not hesitate to contact me.

Sincerely,

Jim Vlahovich
Interim Director Elections

JIM VLAHOVICH
Interim Director, Elections
(520) 432-8973
jvlahovich@cochise.az.gov

MARTHA L. REYNOLDS
Elections Program Coordinator
(520) 432-8972
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ANNE` E. MACAK
Elections Technician
(520) 432-8971
amacak@cochise.az.gov

CERTIFICATION OF CANVASS OF
THE CITY OF BENSON
PRIMARY ELECTION AUGUST 26, 2014

I, the undersigned, being the Election Officer of Cochise County, do hereby certify, that the copy of the Official Canvass of said election held on August 26, 2014 is attached hereto, and is a true and correct copy of the Official Canvass that has been filed in the records of the Cochise County Elections/Special Districts Office.

Voter Registration	**Ballots Processed**
2,717	1,022

State of Arizona
County of Cochise

Juanita M. Murray
Elections Official

OFFICIAL SEAL
MARTHA L. DOMANN
NOTARY PUBLIC - State of Arizona
COCHISE COUNTY
My Comm. Expires Oct. 14, 2014

This instrument was acknowledged before me this 2nd day of September, 2014 by Juanita M Murray.

Martha L. Reynolds
Notary Public Martha L. Domann

My commission will expire: OCT. 14, 2014

	VOTES	PERCENT
01 = BALLOTS CAST	1,022	

CITY OF BENSON MAYOR
Vote for not more than 1

	VOTES	PERCENT
02 = KING, TONEY, SR.	509	51.78
03 = MONCADA, CHRIS	464	47.20
04 = WRITE-IN	10	1.02
05 = OVER VOTES	3	
06 = UNDER VOTES	36	

	01	02	03	04	05	06
0001 01 BE BENSON	405	201	185	4	1	14
0002 02 BE J-SIX	97	56	35	0	1	5
0003 03 BE SAN PEDRO	520	252	244	6	1	17
0024 24 ST DAVID	0	0	0	0	0	0

	VOTES	PERCENT
01 = BALLOTS CAST	1,022	

CITY OF BENSON COUNCIL
Vote for not more than 3

	VOTES	PERCENT
02 = BROOKS, RON	422	17.04
03 = KONRAD, JOE A.	588	23.74
04 = LAMBERT, DAVID	497	20.06
05 = MCGOFFIN, LORI	565	22.81
06 = SACCO, AL	394	15.91
07 = WRITE-IN	11	.44
08 = OVER VOTES	3	
09 = UNDER VOTES	586	

	01	02	03	04	05	06	07	08	09
0001 01 BE BENSON	405	175	247	196	229	163	4	3	198
0002 02 BE J-SIX	97	59	49	47	48	42	2	0	44
0003 03 BE SAN PEDRO	520	188	292	254	288	189	5	0	344
0024 24 ST DAVID	0	0	0	0	0	0	0	0	0

	VOTES	PERCENT
01 = BALLOTS CAST	1,022	

CITY OF BENSON COUNCIL - VAC
Vote for not more than 1

	VOTES	PERCENT
02 = BOYLE, PATRICK	673	97.11
03 = WRITE-IN	20	2.89
04 = OVER VOTES	2	
05 = UNDER VOTES	327	

	01	02	03	04	05
0001 01 BE BENSON	405	249	9	2	145
0002 02 BE J-SIX	97	72	3	0	22
0003 03 BE SAN PEDRO	520	352	8	0	160
0024 24 ST DAVID	0	0	0	0	0