

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD APRIL 26, 2010 AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Vice Mayor King called the meeting to order at 7:00 p.m. with the pledge of allegiance.

ROLL CALL:

Present were: Vice Mayor Toney King, Sr., Councilmembers Jo Deen Boncquet, David Lambert, John Lodzinski, Lori McGoffin and Al Sacco. Excused was Mayor Mark M. Fenn.

EMPLOYEE RECOGNITION: None

PROCLAMATION:

Vice Mayor King read a proclamation of the Mayor and Council declaring the month of April as "Child Abuse Prevention Month".

Vice Mayor King asked Councilmember Lambert to read a proclamation of the Mayor and Council declaring the first week of May, 2009, as "Youth Week". Councilmember Lambert then presented the proclamation to the Benson Elks Lodge Exalted Ruler Jerry Pollard. Mr. Pollard then read a brief statement regarding the Elks participation with the youth, including the sponsorship of baseball teams, soccer teams, free swim days, partnering with the City for bicycle safety and providing scholarships. Mr. Pollard then thanked the Council for the proclamation. Vice Mayor King thanked the Elks Lodge for their work and dedication.

PUBLIC HEARING:

None

CALL TO THE PUBLIC:

Kathy Suagee addressed Council, first commending the Elks for their participation with the youth. Ms. Suagee then addressed the Council concerning the contract for legal services. Ms. Suagee's comments are incorporated into the minutes.

CITY MANAGER REPORT:

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

April 27, 2010	– Community Watershed Alliance, 6:30 p.m., City Hall
May 3, 2010	– Economic Development Subcommittee, 5:15 p.m., City Hall
May 4, 2010	– Planning & Zoning, 7:00 p.m., City Hall
May 10, 2010	– City Council Meeting, 7:00 p.m., City Hall
May 11, 2010	– Library Advisory Board, 4:00 p.m., City Library
May 15, 2010	– Historic Preservation Commission, 9:30 a.m., City Hall
May 24, 2010	– City Council Meeting, 7:00 p.m., City Hall
May 25, 2010	– Community Watershed Alliance, 6:30 p.m., City Hall

- May 28, 2010 – Benson City Pool opens. The pool will be open Monday through Saturday from 11:00 a.m. to 5:00 p.m. and Sunday from 1:00 p.m. to 5:00 p.m., Swim lesson schedule and other activities can be found at www.cityofbenson.com
- May 29, 2010 – Free Swim Day – Benson City Pool, sponsored by All the Kings Horses during regular hours.
- May 31, 2010 – HOLIDAY – City Offices Closed

Mr. Nichols then stated he would like to let everyone know there was a new art show on display in the Council chambers, from the San Pedro River Arts Council, entitled “Where the Wild Things Are”. Mr. Nichols stated the Arts Council solicited art on their website and received two art pieces from Oregon that are on display.

Councilmember Lambert then stated Laura Parkin at the City Community Center, did an excellent job with the summer activity program and wanted to commend her for it.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the April 12, 2010 Regular Meeting
- 1b. Appointment of Steven Johnson to the Benson Library Advisory Board
- 1c. Resignation of James Driggers from the City of Benson 4th of July Committee
- 1d. Resolution 30-2010 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of a Base Hospital Agreement with Carondelet Health Network for support of the City’s Emergency Medical Services
- 1e. Invoices processed for the period from April 6, 2010 through April 19, 2010

Councilmember Lambert moved to approve the Consent Agenda. Seconded by Councilmember McGoffin. Councilmember Sacco then asked about the Resolution exhibits that were to be amended from the Council meeting held on April 12, 2010. City Attorney Michael Masee addressed Council stating the corrections were made to the exhibits. Motion passed 6-0.

2. Award of a Union Pacific Grant to the Benson Area Food Bank presented by Ms. Zoe Richmond, Director of Public Affairs, Union Pacific Foundation Board

Vice Mayor King invited Ms. Zoe Richmond, the Director of Public Affairs, Union Pacific Railroad forward to address Council. Ms. Richmond thanked Council for the opportunity, stating as a part of being a neighbor to the community, Union Pacific Railroad they want to make sure they give back to the communities where their employees live and work. Ms. Richmond then thanked the Benson Food Bank for their hard work and presented them with a check for \$2,500.00 stating this is the second year the Benson Food Bank received a Union Pacific foundation grant and hopes they can keep the tradition going.

Vice Mayor King thanked Ms. Richmond for Union Pacific’s donation saying with the current need, the Council appreciates this and what they and others do for our food banks.

3. Presentation by Rod Pace, President and CEO of Rosemont Copper on what Rosemont Copper will bring to Arizona

City Manager Glenn Nichols addressed Council introducing Rod Pace of Rosemont Copper who presented an overview of what Rosemont Copper will bring to the area.

Mr. Pace then addressed Council giving a power point presentation on the Rosemont Copper Mine project and how it would affect areas like Benson. Mr. Pace stated the mine is located approximately 40 miles from Benson and is located down Highway 83 between the Sonoita turn-off and Interstate 10 against the base of the Santa Rita Mountains and is not visible from Tucson or Green Valley. Mr. Pace then talked about what mining has done for the state, saying in 2008, mining had a \$10.4 billion dollar impact on the economy and provided approximately 63,000 jobs, with the average mining wage being \$60,000. Mr. Pace

stated the United States used to export copper, but now import 35% of our copper, adding that the Rosemont project, once up and running, will produce about 10% of the United States copper production for the next 22+ years. Mr. Pace then spoke about a study done by Arizona State University showing economic benefits to the area, which used local areas, including Pima County, Santa Cruz County and Cochise County. Mr. Pace said the study shows once the mine is up and running, it will provide approximately 2,100 jobs on a full-time basis for over 20 years, approximately \$20 million in tax revenue to the local area and will have a \$900 million economic impact over 20 years to the state. Mr. Pace noted it is a large project and will not only provide direct jobs for employees but other jobs for suppliers and such, as well.

Mr. Pace then stated this project gives them the chance to develop a 21st century design mine and that some of the things they have developed is giving back to the community, setting up a \$25 million permanent endowment and a \$500,000 annual contribution while the mine is operating. Mr. Pace then stated the mine will be net neutral on water, using as little as possible and replacing the water they do use. In addressing reclamation, it will start with the project by building an outside perimeter, using native vegetation, blending into the scenery and will use the most modern technology currently available, which saves approximately 50-60% of the water used in a normal mining operation. Mr. Pace then stated the project is in the permitting phase and they expect to start construction about this time next year, noting the cost to build the project is approximately \$900 million and they will be hiring a lot of different construction companies. Mr. Pace then said the construction phase will have a great economic impact on the area in addition to the economic impact for the 22+ years the mine will be up and running. Mr. Pace then thanked Council and stated he was available for any questions.

Vice Mayor King stated he works in Thatcher and has seen other mining operations and knows when it's up and running, it's good for the economy. Vice Mayor King then stated he knows how much involvement the mines have with the community and see that they are working to be environmentally safe and make things right after they are done with the steps they take in reclamation. Vice Mayor King then stated mining has a large impact on the economy, bringing with it a lot of jobs and thanked Mr. Pace for his presentation.

Mr. Pace, thanked Council again for the opportunity to speak and stated they do offer public tours every Wednesday and Saturday, which takes about 3 hours, welcoming anyone who would like to take the tour, adding that information can be found at www.rosemontcopper.com. Mr. Pace then stated if Council would like a private tour, they could contact him.

4. Presentation, discussion and possible Council direction to Staff regarding a proposed Excise Tax Revenue Bond issue to refinance existing City debt and to secure additional Capital Project funds

Finance Director Jim Cox addressed Council stating he had been looking at the City's debt structure and cash flow because the City has an upcoming principal payment of \$335,000 to Zion's Bank, which is the final payment of that loan. Mr. Cox stated the City has the cash to do that, but since we live in an uncertain economic climate, it would benefit the City to preserve that cash on hand. Mr. Cox then stated the secondary reason he was examining this issue was the wastewater treatment plant loan, which has a current balance of approximately \$2.6 million. Mr. Cox stated this loan is a callable loan; one of the terms of the loan is that as soon as the City became capable of securing financing on our own, we would repay the loan. Mr. Cox stated the City has the borrowing capacity to do that today, which means the USDA could call that loan due and payable at any time.

Therefore, Mr. Cox, stated, he worked with Stone & Youngberg, investment advisors and Michael Cafiso, bond attorney and came up with what they all consider to be the best option, which is a way of refinancing our current debt and obtaining funding for some very needed capital improvement projects. Mr. Cox said the City currently spends approximately \$422,000 each year on the wastewater treatment plant loan payments and that he wanted to stay within that amount and not incur any additional cash deficit.

Mr. Cox then began a power point presentation and said he would be calling the proposed bonds the "City

of Benson Excise Tax Revenue Bonds, Series 2010” and stated the estimated bond proceeds are approximately \$5 million. Mr. Cox said the use of the funds would be to refinance the wastewater treatment plant debt of \$2.6 million and to refinance the Zion’s Bank loan balance of \$335,000, leaving a construction fund of approximately \$2 million. Mr. Cox stated the term of the bonds he’s looked at is 20 years and the estimated annual debt service is approximately \$400,000 in principal and interest. Mr. Cox then stated the “all in” interest, which includes all costs of the bond issue such as fees, financing fees, bond attorneys, etc. will be between 5 and 5.5%, noting that rates are dependent on market conditions when bonds are sold, but this is a very good estimate.

Councilmember Lodzinski asked what the City’s bond rating is, with Mr. Cox stating the City won’t get a rating until a go ahead from Council is given and he meets with credit rating agencies, adding he is poised to do so and has received preliminary indications that we will have a very good rating, since the City has developed a good credit rating and a solid balance sheet over the past 4 years. Councilmember McGoffin asked about paying off the wastewater treatment plant and if the ½ cent sales tax would then cease. Mr. Cox stated the ½ cent sales tax was not legally tied to the wastewater treatment plant loan, and that the tax is scheduled to sunset in 2018. City Clerk Vicki Vivian addressed Council regarding the research into this issue, stating the ordinance did not specifically obligate the tax to the wastewater treatment plant loan, although it is believed that was the intent at the time. Ms. Vivian then stated after the former City Manager brought attention to the Ocotillo sewer line, Council designated the tax be set aside into a separate Wastewater Infrastructure Fund to be used for the wastewater treatment plant loan payments and the excess funds were to be used on wastewater infrastructure and only spent with Council approval. Finance Director Jim Cox confirmed that this was done.

Councilmember Lambert asked about making the proposed bond debt payments after 2018 when the sunset clause on the tax takes effect. Mr. Cox stated it would depend on the economy and the future, stating he believes the economy of the City will grow to that point, but feels there isn’t enough information available today to be able to address that. Mr. Cox then stated that the City’s tax rate is 2.5%, which includes the .5% that will sunset in 2018 and that the City is not at the top of the tax rate by any means, adding that the closest City to us has a 3.0% tax rate. Mr. Cox then stated he’s sure our tax rate will need to be looked at in the upcoming years as we go along in the economy and see what the City’s financial health is as we approach 2018. Vice Mayor King stated we are currently using the extra tax for the wastewater treatment plant loan payments and those revenues would then pay this payment on the bonds if we move forward, with Mr. Cox confirming this is correct. Mr. Cox then stated we currently collect approximately \$100,000 in excess of the wastewater treatment plan loan payments and noted that those collections are in the current economic climate.

Mr. Cox then addressed why it would make sense to do this, starting with interest rates being at a historic low rate. Mr. Cox said we already see signs the interest rates will be increasing and he thinks we’re at the tail end of the lowest rates we’ll see. Mr. Cox then stated another benefit is the low construction costs right now and that an additional incentive is that the City would conserve our current cash balances. Councilmember Sacco asked to what extent the cash balances would be conserved with Mr. Cox stating the \$335,000 payment that would otherwise be paid out July 1, 2010 would not be made and the \$422,000 in wastewater treatment plant loan payments would also not be made. Mr. Cox then stated because of the way bonding works, in the first year, the City would only pay approximately \$100,000 in interest, recognizing it would reverse itself in year two and that the City would immediately internally reserve funding for those payments in year two.

Mr. Cox then stated the next advantage would be that the City would eliminate the wastewater treatment plant loan with USDA, which is callable, meaning USDA can come in with 6 months notice, regardless of the economy and require the City to pay it off, which would put the City in a position of trying to resolve the situation instead of being able to be proactive.

Mr. Cox stated another advantage of the proposed bonds are they are a good match of asset life to debt life, explaining that personal debt is different from municipal debt and that in the principles of municipal finance, where a municipality is constantly making capital improvements, it makes sense to borrow funding

since the people using the asset will be the same people who pay off the asset. Mr. Cox then said for example, if we keep the existing wastewater loan that will be paid off in 2018, the wastewater treatment plant will still have a useful life of 15 to 20 years after that date, so the citizens that are in the City starting in 2018 will have paid nothing for the wastewater treatment plant, while the citizens here during the early years of the wastewater treatment plant will have overpaid for it. Mr. Cox then stated this is in addition to costing the current citizens in other areas, since the City can't use any funding for our other capital projects, such as streets.

Mr. Cox then stated our debt service would come from our current cash flow and there would be no increase in our current outgoing cash flow. That this proposed plan would pay off existing debt and obtain \$2 million for capital improvements which would allow the City to complete some badly needed projects. Mr. Cox then stated the City has put the capital improvement projects on hold for the past 2 years and will do so again in the upcoming year, unless new funding is obtained. Mr. Cox then stated the City can only put the improvements off for so long before we end up paying more for them. Mr. Cox then stated there would be no restriction on the \$2 million that would be put into the construction funds. Councilmember Sacco asked if the capital improvement projects be postponed for awhile and how long have they been postponed with Mr. Cox stating Public Works Director Brad Hamilton could address the projects more effectively when he addressed Council in a few minutes. Mr. Cox then stated the proposed bond plan would be the City's own stimulus package, except we're not placing our children into debt for it.

Mr. Cox then spoke about the disadvantages of the proposed bond plan stating it was essentially refinancing the City's existing debt. Mr. Cox noted the \$2.6 million wastewater treatment plant loan would be paid off in 8 years and the Zion's Bank loan would be paid off in July, 2010 with the final payment of \$335,000. Mr. Cox then stated the City could do this, noting it would diminish our reserves, but the City has the ability to do it. Mr. Cox then stated the proposed bond schedules final maturity date isn't until 2029, so in essence we're refinancing our current debt that is scheduled to mature much earlier, out to a later date. Mr. Cox stated this is how the \$2 million is generated to finance capital improvements, saying this goes against his personal views on personal debt, but that the bonds would be fairer to taxpayers and makes sense.

Mr. Cox then addressed how bonding works, stating should Council approve this, the proposed closing date is in July, 2010 and that all bonds are pre-sold with the proceeds deposited into a trust for distribution to pay off debts and the City would get the remainder at closing. Mr. Cox said the City would deposit those funds into a special construction fund in a physically separate bank account, which is not required but is how it would be done, and those funds would be reserved for the payment of the capital construction projects so we could clearly demonstrate a segregation of funds. Mr. Cox then said the City makes semi-annual payments of principal and interest to the holders of the bonds, so instead of a monthly wastewater treatment plant loan payment, he would escrow monthly payments to make the semi-annual payments; in essence the City's monthly cash flow would remain the same as it is today. Mr. Cox then stated this concludes his introduction, that he was not asking for a Council decision, but wanted to look at where we are and what we can do, adding he was pleasantly surprised and very comfortable that this proposed plan is the right thing to do. Mr. Cox then stated he would be available to answer questions, if there are any, and that he would like to formally bring the item back to Council in a resolution, adding it would most likely be at the May 24th Council meeting. Mr. Cox then turned the time over to Public Works Director Brad Hamilton.

Mr. Hamilton addressed Council stating he put together the proposed project list, and that it is a little different than a normal Capital Improvement Plan, since he tried to look at projects that were critical and where the City is vulnerable, as well as looking at projects that could save the City money by reducing operating costs, that were energy efficient and could take the stress load of the regular systems, and that he also looked at what projects would give the City the most impact for the money. Mr. Hamilton then stated in answer to Councilmember Sacco's earlier question regarding the delay of capital improvement projects, the project that worries him the most or that is the most critical is the Ocotillo sewer line, stating the line is getting into bad shape and if we had a failure, it would be very expensive, because we have no plans in place to replace it. Mr. Hamilton then spoke regarding the remaining proposed projects beginning with the

Wal-Mart water line pressure reducing station stating it would take the pressure on the Wal-Mart line down so we could use it in the upper water zone, giving us a second feed into town. Mr. Hamilton stated the 5th Street and Ocotillo water line improvements would parallel with the sewer line improvements, and would bring higher fire flows and higher pressures to the area around the hospital where our water pressure is low and our fire flow just barely meet requirements now. Mr. Hamilton then stated another thought was the ballpark well reuse stating currently we're looking at 38 acre feet used on Lions Park every year, which is taken out of our potable water side and that if we could bring the ballpark well back online and use it for irrigation, it would be that much less demand on our system. Mr. Hamilton then stated streets are always a critical need and that in looking into equipment replacement, the sewer jet router is getting older and replacement parts are getting harder to find, adding that luckily we have a very skilled staff that has constructed brackets and other things to get us by until we could get the parts replaced. Mr. Hamilton stated the list of proposed projects is a very preliminary list and without the pavement management component, would total approximately \$725,000, adding that pavement management could utilize the balance of the capital construction funds if Council decided to include it.

Councilmember Sacco asked if some of these projects weren't already in the Capital Improvement Plan and what would happen if they were with Mr. Hamilton stating if Council moves forward with this funding source, we would schedule the selected projects in the Capital Improvement Plan for the upcoming fiscal year and once they were completed, they would be removed from the Capital Improvement Plan. Councilmember Lodzinski asked about pavement management with Mr. Hamilton stating pavement management is on-going and has been put on hold in the current economy, but the City could easily spend \$5 million which would mill and replace a lot of the streets in Benson that need it, noting pavement management should be a line-item from here on out and that if we were in a healthier economy, the City should expend funding on it every year.

Councilmember Sacco asked about the equipment replacement, with Mr. Hamilton stating this was the jet router he spoke about and that it was over 20 years old and is getting harder and harder to find parts for it. Mr. Hamilton stated this is a critical piece of equipment required to clean wastewater back ups and in the past few years, we've stepped up the maintenance schedule on the sewer lines, resulting in less wastewater backups, but more load on the equipment.

Councilmember Sacco then asked about the Wal-Mart water line pressure reducing station and if Wal-Mart would take any responsibility for that with Mr. Hamilton stating Wal-Mart did their part when they built the infrastructure and that this would be a second station to bring the pressure down to what the upper zone pressure is.

Finance Director Jim Cox stated most of these projects are in the Capital Improvement Plan, but are unfunded, adding that we have moved all projects back by one year for the last two years and plan on moving them back again due to funding not being available. Councilmember Sacco asked if Mr. Cox was suggesting we will have to move the projects back again if we don't go through with the bonding, with Mr. Cox answering there was no question they will have to be pushed back, that there simply was no funding for them. Mr. Cox then said an example of one of the big risks we have is the Ocotillo sewer line, that if something happened, the City would have to dip heavily into our reserves, which would put our operations in jeopardy going forward, adding that is it an advantage to the City to build up our cash funds in anticipation of emergencies.

Vice Mayor King stated in the last few years, Council has looked at taking burdens off the taxpayers right now and that they are paying for some of the things that they won't be using 20 years from now, asking why should it all be put on the taxpayers now, when it can be stretched out. Vice Mayor King then stated he thinks some of these issues are critical and we need to find a way to fund them, adding if the Ocotillo sewer line had a problem, we'd be in bad shape, using up most of our reserves. Vice Mayor King then stated this is something the Council and the community need to take a serious look at.

Vice Mayor King then said he had a written statement the Mayor that he was asked to read which states the Mayor supports giving direction to Mr. Cox and staff to bring Council more information regarding the tax

revenue bond as a possible source of funding for the City.

Councilmember Sacco stated from what he had heard, it looks like Mr. Cox is counting on the economy progressing upward very shortly, with Vice Mayor King stating we were looking at the economy staying the same, but by taking the two debts we currently have and combining them with the bond proposal, the City was looking at an outgoing payment in the same amount we have today, but would be able to do projects while still maintaining our cash reserves.

Councilmember Sacco asked if the bond rates were locked in with Mr. Cox stating the rate is locked in when the bonds are sold, explaining that what is sold is a series of bonds that mature each year over the next 20 years. Mr. Cox then said what has been looked at, which is preliminary, but is a good estimate, is an interest rate on the bonds that go out for the first year of 1.37% and the bonds that mature in 20 years have an interest rate of 5.03%. Mr. Cox stated the blended average rate is 4.57%, blending all the rates for all the maturities over all the years. Mr. Cox stated the rates will be fixed and is a key element of the plan, because we are currently at historic low rates. Vice Mayor King then stated if the economy remains the same for a couple more years, we can survive with the proposed payment which is slightly lower than our current payment, adding that if the economy goes up, the City will have additional funding and can build cash reserves.

Councilmember Lodzinski then spoke stating the proposed plan is common with business now; many businesses are looking at this option, evaluating their facilities and assets and matching debt to them. Councilmember Lodzinski then asked if the street improvements we would be looking at would be for chip sealing or repaving, with Mr. Hamilton answering that would have to be determined and that the first thing he looked at were the utilities. Councilmember Lodzinski stated paving would last 20+ years, but on the other hand, more streets could be done if they were chip sealed.

Vice Mayor King then stated an advantage of moving forward now is the guarantee of income from the sales tax that is in place until 2018, stating that revenue currently makes the debt payment and will be in place until 2018. Councilmember Lodzinski then said the City Council in the future, 2016 and 2017, could then address the City's debt structure and sources of funding for the remainder of the bond commitment.

Councilmember Lodzinski said he feels a lot of people would rather see the proposed bond plan utilizing the extra sales tax instead of raising the property tax, since it would share the burden not only with the citizens of Benson, but to anyone who shops in Benson. Finance Director Jim Cox said Benson currently has a very low property tax rate, and this proposed plan would not affect the property tax rate, adding that the City would not be changing anything on the revenue stream projections, only on expenditure side by eliminating one debt payment and gaining another debt payment.

Vice Mayor then stated Council would like to give direction to staff to bring more information back. Councilmember Lodzinski stated this would allow further evaluation and that the Council would probably hear from the public during that time. Finance Director Jim Cox asked City Attorney Michael Masee if Council should give direction to staff to proceed in the negotiations and see where we would come out with Mr. Masee stating it would be a cleaner record if Council would entertain a motion to direct staff to prepare an action item to be brought back to Council in approximately one month. Councilmember Lodzinski then stated that was his motion. Seconded by Councilmember Boncquet. Motion passed 6-0.

5. Review, discussion and possible action regarding approval and renewal of Municipal Legal Services Contract for the City Attorney, Michael Masee

City Manager Glenn Nichols addressed Council stating the legal services contract comes due May 1st and that Mr. Masee had agreed the same terms at renewal contained in his current contract, nothing the only changes made were the dates and the email contact address. Mr. Nichols stated Mr. Masee worked well with staff, handled many situations during his contract period that probably had not come up for the City of Benson before, and per staff, he has been responsive to all requests and provided legal guidance. Mr. Nichols then stated staff recommends approval of the proposed contract.

Councilmember Sacco stated there have been some accusations made here tonight by Kathy Suagee and he would like Council to have an opportunity to investigate before they went any further, adding that he believes this item should be discussed in an executive session rather than in open forum. Councilmember Sacco then moved to table this item until a full council is in attendance and that the Council have an executive session before taking action. Seconded by Councilmember Bonquet. Motion passed 4-2 with Councilmember Lambert and Councilmember McGoffin voting nay.

6. **Review of City Finances with emphasis on March, 2010, financial results, the City's financial position at March 31, 2010, and discussion of projected future net revenues**

Finance Director Jim Cox addressed Council beginning with citywide financial highlights, stating the cash balances are up \$131,000 to \$2.7 million of unrestricted cash, stating he is expecting that balance to increase very slightly between now and the end of the current fiscal year.

Mr. Cox then stated the citywide fund balances increased by \$103,000 for the month of March, but were still down \$131,000 year-to-date, adding he believes the citywide fund balances will be very close to break even, but slightly negative at year end.

Mr. Cox then addressed citywide financial results, stating City revenues increased by \$47,000 for the month of March but were still well behind last year, down \$871,000 year-to-date, however, when examined, it doesn't look as bad as the figure suggests, stating the construction sales tax was down \$227,000 due to the slow down in construction, the reduction in grant revenue of \$369,000 was due to a very large airport grant from the previous fiscal year and the decrease in natural gas revenues of \$225,000 reflected the reduction in price of natural gas, which in turn reduces our purchase expenses of natural gas. Mr. Cox then said the real reduction in revenue was \$140,000 in state shared revenues, which will continue into the next fiscal year with further decreases.

Personnel costs were addressed next with Mr. Cox stating they were close to what they were last year and other costs are down \$599,000 year-to-date, but the decrease is primarily due to the absence of the large airport grant spending we had last year, adding that we've kept our controllable expenses to a minimum the past two years and will continue to do so into the next year.

Mr. Cox then addressed the General Fund stating revenues were up \$10,000 for the month of March, but were still down \$99,000 year-to-date. Mr. Cox stated the decreases were due to a \$28,000 decrease in permits, which is tied back to construction, a \$106,000 decrease in state shared revenues, which is our share of income tax and sales tax throughout the state, and a decrease of \$64,000 in asset sales due to the sale of the City's excess assets being conducted in the previous year.

Mr. Cox then continued with the General Fund stating the personnel expenditures were down \$68,000 year-to-date due to unfilled positions and other costs are down \$23,000 year-to-date, stating again, it's very similar to last year with the changes being due to timing issues. Mr. Cox then stated the General Fund balance was up \$15,000 in March, but it was still down \$253,000 year-to-date, stating this fund balance will probably be slightly negative at year end.

Mr. Cox then addressed the enterprise funds, stating the Gas Fund was up \$28,000 for the month of March and just past breakeven year-to-date, noting the revenues and expenditures were both down because of the lower price of natural gas. Mr. Cox then stated the water usage has been up over the last year and was up \$2,000 for the month of March and up \$132,000 year-to-date. Mr. Cox stated the water revenues year-to-date were up \$78,000 from last year, and the expenditures were down \$32,000 stating it was due to capital improvements made last year that did not have to be done this year. The Wastewater Fund is up \$8,000 for the month of March and up \$25,000 year-to-date which is just over breakeven, stating the revenues were up and the expenses were up due to a couple of capital expenditures made early in the year.

Mr. Cox then gave a summary, stating that our year-to-date general fund revenues are on budget, but were 3% less than last year, which is what was projected, adding that we'll be looking at another 3.5% to 4%

decrease over the next year. Mr. Cox stated our cash balances increased by over \$360,000 in the past two months which is a trend that will continue this month, but will reverse itself in May and June. Mr. Cox then stated City sales tax collections were up 3% in the month of March, stating it was the 4th or 5th consecutive month that when compared year-to-year, we've seen an increase in our sales tax collections, which is very encouraging and shows the City is very slowly climbing out of our recession in the City, noting it was not happening in the State. Mr. Cox then said State sales tax revenues continue to slide, while the City is increasing very slightly, the State is still decreasing very slightly, adding when you compare year-to-year, the State sales tax revenues have been negative for the past 22 consecutive months. Councilmember Lodzinski stated there was news that a suburb of Phoenix, one city went positive when comparing year-to-year. Mr. Cox stated he believed that was Glendale and that Benson was happily different from most of the State. Mr. Cox then said the State recovery is going to trail the national recovery, adding that on the national scene, we're beginning to see signs of recovery, but there were still no signs of it on the State scene.

Mr. Cox then stated we will be spending a lot of time on in May will be very similar to our current budget, except that we will have less revenue so there will be budget cuts that will hurt.

Mr. Cox then continued addressing City Tax Collections, including Sales Tax, Construction Tax and Bed Tax collections stating in City sales tax collections, the chart shows where the City is slowly climbing out of the recession and is slightly better each month than the month before for the 5 past months. Mr. Cox then stated the General Fund sales tax collections chart shows the same thing. Mr. Cox then stated construction sales tax collections are unpredictable, but they are definitely lower than they were last year. Mr. Cox then stated bed taxes were a little better over the past 3 months than they were over the same 3 months last year which was encouraging and that food services, restaurants and bars, are actually they have ever been in the history of the City.

Mr. Cox then compared the City sales tax collections to state tax collections, and said the City is starting to climb out of the recession and have been doing so for about 5 months, whereas, the State on the other hand is consistently declining, noting that there has not been 1 month in the last 22 months that revenues have not decreased over the prior year.

Vice Mayor King thanked staff and all the employees of the City for being so prudent with expenses, stating we've done a good job getting through this. Mr. Cox stated it had been a team effort with everyone working together and finding new ways to cut expenses and that without total cooperation from everyone, it wouldn't be possible. Mr. Cox then stated we will continue in that mode, stating while we're looking better, the City doesn't look good, just "less bad." Vice Mayor King then thanked Mr. Cox for the information they received.

DEPARTMENT REPORTS: None

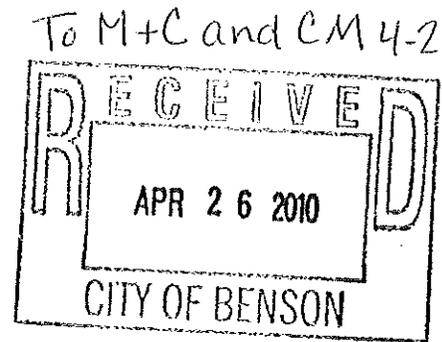
ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 8:21 p.m. Seconded by Councilmember Sacco. Motion passed 6-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk



E. Kathy Suagee
374 W. Duane Street
Benson, Arizona 85602
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April 26, 2010

TO: Benson City Council Members

FROM: Citizen E. Kathy Suagee

RE: Agenda Item #5, Call to the Public

Honorable City Council Members:

I am unable to attend tonight's meeting, during which you will discuss renewing the contract with your attorney Mark Masee, because of family obligations. Upon reading his contract, it is my opinion that he has, on numerous occasions throughout the year, breached the contract under the auspices of representing your interests.

I would like to direct your attention to the wording in section 1-1.1 of Mr. Masee's contract:
"Attorney shall...perform such ...legally permissible and proper duties and functions as appropriate for the City Attorney."

Mr. Masee has not acted in the capacity of advisor to the Council; rather, he has initiated conflicts, has proposed action on behalf of other entities, and has behaved himself in a way not reflective of an honest government intent upon the welfare of its citizens. In regard to initiating conflicts, it is common knowledge and actions have demonstrated that Mr. Masee is "out to get" certain business people. In regard to proposing action, I myself heard the recording of Mr. Masee's voice saying to you at the last Council meeting, "What I am proposing..." in reference to a developer's request for rezoning via a change in the General Development Plan. Mr. Masee's role is not to "propose" action to the Council on behalf of developers, be they on the Council or not, but to answer your questions about proposals made by others.

Finally, in reference to Mr. Masee's unprofessional behavior, I witnessed him perjuring himself before the Board of Adjustment in more than one way. These meetings are on tape, and the perjury is undeniable. Furthermore, Mr. Masee is not above lying and withholding information when it suits his own designs. His attitude toward the Council is patronizing and superior. How can you stand that?

And this is the problem you face with Mr. Masee. He has his own designs. He is not your servant. He will continue to use his position to influence you, and then he will go home and laugh at you.

Finally, in regard to section 5.2 of the contract, this paragraph gives the attorney incentive to work on the specified examples so that he will incur a higher rate of pay. The examples are: annexation and zoning issues. The door is left open as to what other issues might be "examples." The paragraph states that work on these issues will not be paid by the rate set in the contract for overtime, nor does the contract state that the first 40 hours must be met before the "Contractor's usual and customary rates of service" kick in. Paragraph 5.2 essentially supplants paragraph 5.1, giving the "contractor" every reason in the world to "propose" action before the Council in the areas of zoning and annexation, and who knows what else, as he did at the last meeting.

Take a look at what you have already paid Mr. Masee. Take a look at the rates of pay he has demanded in his monthly reports. Add up the hours. I believe you will find you are paying through the nose for Mr. Masee, and while he has that ring in your nose, he is leading you down a path to law suits he will be unqualified to defend. You will then also have the expense of a qualified attorney, whose first advice to you will be to settle, because you are wrong. Then we taxpayers who are going to be footing a very, very large litigation bill.

Mr. Masee is not respected in the legal community, most of which is comprised of attorneys who do have integrity, because integrity is a characteristic he does not possess. I implore you to reconsider employment of this person. Notwithstanding Mr. Nichols' opinion, Masee is a liability to the City.

A Concerned Citizen,



E. Kathy Suagee