

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JANUARY 9, 2012, 2011 AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Vice Mayor McGoffin called the meeting to order at 7:00 p.m. with the pledge of allegiance. Vice Mayor McGoffin then introduced Deborah Puckett of the Baha'i Faith who gave the invocation.

ROLL CALL:

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

Vice Mayor McGoffin then stated Mayor King was currently in the hospital and asked those present to keep him in their thoughts and prayers.

EMPLOYEE RECOGNITION: Vice Mayor McGoffin recognized Brad Hamilton, Cheri Shull and Phyllis Pralgo for each having 5 years of service with the City of Benson.

PROCLAMATION: None.

PUBLIC HEARING:

Vice Mayor McGoffin opened the public hearing to receive comments from the public regarding the use of approximately \$250,000 in Fiscal Year 2012 Federal Community Development Block Grant (CDBG) funds from the Arizona Department of Housing Regional Account (RA) at 7:04 p.m., stating this was the second public hearing for the Community Development Block Grant funds (CDBG) and then read a statement informing the public about the CDBG funds and the criteria projects must meet to be eligible for the funding. Vice Mayor McGoffin then invited those who had signed up to speak.

Kathy Suagee addressed Council stating she wanted to keep the Council informed of the problem with the sewer system on Ocotillo collapsing; adding CDBG money would be a good source of repairing it and other infrastructure deterioration in the City. Ms. Suagee stated she knows the parameters of the grant, adding it can't be used to take care of streets where people make above minimum wage, but the recent fix on Duane was very inferior. Ms. Suagee then stated the work was completed by prison workers and felt if the repair was done by City personnel, the repair would have been better.

Jeff Cook addressed Council stating he spoke to the owner of the Arnold Hotel block and suggested to him instead of demolishing old homes, they be moved to one of his lots, splitting the costs to do so, adding the owner was receptive to this. Mr. Cook then stated this area is a low income area and would fit the parameters of the grant requirements. Mr. Cook then stated restoration of historic homes should be done in a historic way, noting some of the houses in the district aren't being done that way now. Mr. Cook then stated the reason this idea came to mind was he saw the recent demolition of a historic home located next to the library and also saw the restoration of a historic home, where the time, effort and care were put into restoring the home in a historic way. Mr. Cook then stated instead of demolishing these houses one by one, there are people who have lots and would be glad to take them and if we could help with the added burden of the costs to make them historic again, which is more expensive than just going to the lumber store, adding he thinks Benson would be a better place with the houses that were a part of Benson and its history.

Vice Mayor McGoffin then asked if there was anyone else present who wished to speak. Christopher Early addressed the Council stating on behalf of friends and himself, he would like the Council to consider extending the Saturday hours for the City library.

After receiving no further requests to speak, Vice Mayor McGoffin closed the public hearing at 7:13 p.m.

CALL TO THE PUBLIC:

Vice Mayor McGoffin stated Mayor King had written a letter to Jennifer Rush, President of the Benson/San Pedro Valley Chamber of Commerce and to the Chamber of Commerce and asked her to read it at the meeting. Vice Mayor McGoffin then read the letter. The letter will be retained with the Council packet.

JT Moffett addressed the Council stating he was present because of a grave injustice, stating 6 of the Councilmembers obviously care about this community and speak for the citizens, with their only purpose to fulfill their obligation to the people of Benson, but 1 member of the Council does not seem to share that vision. Mr. Moffett then stated Councilmember David Lambert was here because he has aspirations to better his own political career, with his main concern being elected to a higher office, adding when Mr. Lambert asked him to be his campaign manager for County Supervisor, Mr. Lambert stated being on the Benson City Council was just a stepping stone for him. Mr. Moffett then stated Mr. Lambert has shown disrespect for the citizens of Benson and for proper protocol on the Council, adding one instance of this is when Mr. Lambert disrespected the authority of the Vice Mayor and called for the police to remove a citizen from the chambers before the Vice Mayor could act, when he had no right or authority to do so. Mr. Moffett then stated there are many other examples of this arrogant behavior that will be brought forth in the upcoming recall, stating the straw that broke the camel's back came last month when Mr. Lambert intentionally blindsided everyone from the City Manager to his fellow Councilmen in his attack and interrogation of the Chamber Director. Mr. Moffett then stated Mr. Lambert's battle cry has been that he is responsible for taxpayer money and he continues to justify himself in this same fashion. Mr. Moffett then stated Mr. Lambert's few supporters can only bring forth criticism of Mr. Nichols, the Chamber and himself in a lame attempt to take the spotlight off of what he has done. Mr. Moffett then stated Jim Cox, or someone using his name on the newspaper website, tried to confuse Benson voters with facts and figures about the General Fund that just don't add up, stating no matter how he tries to mix it up, the money going to the Chamber of Commerce is not Benson resident dollars, but transient and tourist money put into the General Fund and dispersed back out. Mr. Moffett then stated Resolution 17-89 gave the Chamber all the money collected from the 2% bed tax and stated even the 1992 repeal left the Chamber's funding and ability to fully operate intact without restrictions. Mr. Moffett then stated after 1992, some unscrupulous politicians on the City Council decided there was still too much money for the Chamber so they cut the Chamber's funds again, added more restrictions and made the Chamber squirm and beg for the money that was rightfully theirs to begin with, which is the same thing the government did to social security. Mr. Moffett stated Mr. Lambert then proceeded to use these former Council decisions as a basis for his harassment of the Chamber, when he should have gone all the way back to the original intent of the bed tax, but instead only went halfway back to a wrongful cutting of the Chamber funding. Mr. Moffett then asked why not correct a grievous error made by that former Council, adding this Council is not bound by that ridiculous resolution and instead, Mr. Lambert chose the ludicrous ordinance to attack the Chamber instead of doing the right thing. Mr. Moffett then stated he wanted to set the record straight; Mr. Lambert had deviously misled the Benson voters into believing he was defending their tax dollars and has proudly stated he is doing the right thing for taxpayers. Mr. Moffett then asked what taxpayers' money Mr. Lambert was defending, stating the money collected from the bed tax is from snowbirds. Mr. Moffett then stated Mr. Lambert has caused lawsuits to be filed and a recall election, adding without question, the funds for both of these are Benson taxpayer dollars; tens of thousands of Benson taxpayer dollars which will be wasted defending Mr. Lambert, not to mention the potential jobs he scared off with his antics. Mr. Moffett then stated one could only guess at what hidden motive would cause Mr. Lambert to open this can of worms under the pretense of being the taxpayers' hero, adding Mr. Lambert is no longer the taxpayers' hero, but will become the taxpayers' burden and Mr. Lambert has been asked to resign and end this fiasco. Mr. Moffett then stated he has been guaranteed in writing the lawsuits and recall will be dropped if Mr. Lambert resigns, therefore saving the Benson taxpayers tens of thousands of dollars, showing it is no longer just a matter of right or wrong, but a matter of simple economics. Mr. Moffett then stated Mr. Lambert is now a tremendous burden to the City of Benson, then asked Mr. Lambert to do the right thing and resign his seat on the City Council. Mr. Moffett then thanked the City Council for listening to him.

Harold Boaz addressed the Council stating he would like to read a letter concerning the bed tax issue and the conflict Mr. Moffett spoke about. Mr. Boaz then read the letter, which will be retained with the Council packet.

Jennifer Rush, President of Benson/San Pedro Valley Chamber of Commerce read a letter of appreciation for Mayor King and his letter. The letter will be retained with the Council packet.

Stephen Insalaco addressed the Council regarding the City's reputation for being business friendly. Mr. Insalaco's comments will be retained with the Council packet.

Kathy Suagee addressed Council stating she would like to add to Mr. Insalaco's comments the City should make existing businesses better able to operate also. Ms. Suagee then stated she would like to address the Council about ethics stating ethics has to do with being truthful with yourself and others, representing things in an honest and forthright way and trying to do what is right. Ms. Suagee stated each of the Council has a private life and each must watch out for the ways in which they might have conflicts of interest. Ms. Suagee then stated Councilmember Maldonado should not be going into executive sessions or participate in any other issues with other mobile home parks, when he is the manager of one, Councilmember Moncada and Vice Mayor McGoffin are related to the police department and have been cautious in excusing themselves in Council issues that have to do with the police department, adding usually, as representatives of the Council, they could represent police officers as individuals, but if they were married to or related in another close way, they could not, so they would need to refrain from having any part in a decision having to do with the police department. Ms. Suagee then stated Councilmember Sacco is related to a business man in the community and she hopes he would refrain from any dealings with any decisions regarding that aspect of our community and Mayor King also has concerns in the business community and he should refrain from anything that has to do with Wal-Mart. Ms. Suagee then stated Councilmember Brooks works for AEPCO and he would need to refrain from anything to do with AEPCO. Ms. Suagee then stated she didn't know what Councilmember Lambert's personal occupation was, but she hoped he and all of Council would act in an ethical way. Ms. Suagee then stated she would like to give an example in ethics, stating there is a judge sitting on the bench who was elected in the last round of elections and this judge prior to the year in which he was elected, had a conviction of assault. Ms. Suagee then stated the person went through a year of paying fines, then asked for his record to be cleared and after it was cleared, ran and was elected, adding the person is now a judge who is most critical of others who commit assault and she feels that is unethical, because he is, himself, guilty of that crime. Ms. Suagee then stated another example of unethical behavior is for someone who is in charge of a supply room to order supplies his employer doesn't need in retaliation for some correction the employer levied at the employee. Ms. Suagee then stated she also thinks it is unethical for the Council to facilitate a vendetta of City Staff against individual business owners and against such things as the Chamber of Commerce. Ms. Suagee then stated the Chamber of Commerce is a valuable asset to the community and it has been supported in the past by bed taxes passed with the intended purpose of supporting the Chamber of Commerce. Ms. Suagee then stated the ordinances and resolutions changing the aspect of the bed tax haven't always been done in a proper and legal way and she thinks the bed tax should be designated for those businesses we rely upon for that type of income in the community. Ms. Suagee then stated she thinks coming down on the Chamber president as Mr. Lambert did was unethical, because those who are most guilty of an action are often the ones who are most critical of that action, just as she quoted in the instance of the judge and asked Council to think about that.

Don Buchanan addressed Council stating he doesn't have a dog in the current bed tax conflict, then jokingly added, except to continue his reputation as a disruptive influence in the community and after hearing the first speaker, thinks he may have lost his status. Mr. Buchanan then stated he had heard a lot of discussion about what the bed tax was for and what it wasn't for, saying there were conflicting statements in the paper and he would hope at some point, information could be provided by the City to those who sit back and wonder what is going on. Mr. Buchanan then stated lawsuits and recalls don't really serve any purpose at this point, unless it's self-aggrandizement. Mr. Buchanan then stated he thinks it is unfortunate there was a very strong reaction by the Chamber Director and is surprised the Chamber and the Chamber's face is so aggressive and maybe so emotional, adding when you have been in politics long enough, you find that's really not the way to get things accomplished. Mr. Buchanan then thanked the Council for listening to him, asking for anyone who sees the Mayor, to wish him the very best.

CITY MANAGER REPORT:

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

- January 10, 2012 – Library Advisory Board, 4:00 p.m., Library
- January 21, 2012 – Historic Preservation Commission, 9:00 a.m., City Hall
- January 23, 2012 – City Council Meeting, 7:00 p.m., City Hall
- January 24, 2012 – Community Watershed Alliance, 6:30 p.m., City Hall

- January 16, 2012 – Martin Luther King Day – City Offices Closed

Mr. Nichols stated he had received notification that over the next 3 months, it will be quite disruptive for east bound traffic on Interstate 10, adding information on the I-10/State Route 90 Traffic Interchange project closures can be found at www.azdot.gov.

Vice Mayor McGoffin stated the executive session regarding the City Attorney and New Business Item #6 were requested to be tabled by Councilmember Brooks until all the Council can be present.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the December 12, 2011 Special Meeting
- 1b. Minutes of the December 12, 2011 Regular Meeting
- 1c. Memorandum of Understanding (MOU) with U.S. Immigration and Customs Enforcement (ICE)
- 1d. Renewal of an Independent Contractor's Agreement with WILLDAN, Inc. for Consulting Engineering Services on an As-Needed Basis
- 1e. Invoices processed for the period from December 6, 2011 through January 2, 2012

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

2. Discussion and possible action in regards to changing the due date for agenda items in the Council Packet in order to get packets to Councilmembers in advance

Vice Mayor McGoffin opened the item for discussion with Councilmember Brooks stating in the past, the Council has received the Council packets on the Wednesday preceding the Council meeting and he has found it doesn't give enough time to research issues and speak to people necessary to make informed decisions. Mr. Brooks then stated he thinks the best way to resolve it, would be to move up the submission date for items to be placed on the agenda by 1 week, adding if everything for the packet were submitted 2 weeks prior to the Council meeting, the Council could then receive their packets 11 days before the meeting, giving Council more time to get out there, see and talk to people to find out what they think of the issues and be more informed when coming to meetings.

Councilmember Sacco stated he agreed with Councilmember Brooks. Councilmember Lambert then stated he likes the idea of having more time to review the packet, but his concern is in requiring everything to be submitted 2 weeks in advance, there may be a lot of amended agendas since there may be items requiring Council action that may not be able to be submitted that far in advance.

Vice Mayor McGoffin then stated Mayor King had City Clerk Vicki Vivian gather some information on other municipalities and the time their Council has to review Council packets. Vice Mayor McGoffin then distributed that information to the Council, stating most Councils have 5-6 days to review their packets. Councilmember Moncada stated a little more time would be nice, especially when there are big packets, but he felt trying to get the packets to Councilmembers 11 days before the meeting would lead to amended agendas and the same issue of not having time to review the information would result. Councilmember

Moncada then stated he would agree to getting the Council packets a little earlier, but 11-14 days before the meeting was too far in advance. Councilmember Brooks stated he would like to stipulate if an item needed to be placed before Council, resulting in an amended agenda, that a reason why it was submitted late accompany the information given to Council, adding he doesn't think anyone on Council would have a problem addressing an item that required immediate action, but many items are routine and shouldn't be submitted after the deadline needed to produce packets earlier. Councilmember Brooks then stated currently, the Council receives their packet 3 business days before they have to make a decision and he feels that doesn't give enough time to find answers to issues, especially if gathering information requires waiting for a return phone call from someone. Councilmember Brooks then stated he doesn't feel it gives him the time to thoroughly do the job the people want the Council to do.

Further discussion included the possibility of Council tabling items they felt they needed more information on and Councilmembers being informed of upcoming agenda items by Staff. Council then asked City Clerk Vicki Vivian for her opinion with Ms. Vivian stating she had a Standard Operating Procedure in place and would adjust it to meet the Council's direction for the packet distribution day, adding if Council moved up distribution by 3 days and found it still wasn't enough, or moved it up by a week and found it resulted in too many late item submissions, Council could address the issue again. Councilmember Sacco then stated he assumed a lot of time is spent doing reproduction and asked if the Council packet could be put on a disk for Councilmembers. Ms. Vivian stated she tried giving Council their packets on disks a few years ago, and while she was willing to do it again, Councilmembers still requested their packets for the meetings, adding without individual computers for Councilmembers, they wouldn't have the capability to view packet items at the meeting.

Councilmember Maldonado stated he wouldn't have a problem moving the distribution of Council packets from Wednesday to Monday, giving the Council 5 working days, adding if someone doesn't return a phone call in 5 days, they are not that interested in the issue. Councilmember Maldonado then moved to have the Council packets ready for distribution on Monday, giving the Council 7 days to review the packet before the meeting. Councilmember Lambert called for a point of order, stating he didn't believe direction to Staff required a motion, with City Attorney Michael Masee stating Council could direct Staff via a motion. Councilmember Lambert, then based on advice of counsel, seconded the motion. Councilmember Brooks then stated he would like anything turned in after the distribution of Council packets to be accompanied by a reason it was turned in late, adding if becomes routine, Council may decide not to address the late item. Councilmember Maldonado then amended his motion to include that anything turned in after the Monday distribution date would be on the agenda but would need a reason accompanying it so Council could determine if the late items are routine and would be able to look at the procedure again. Councilmember Lambert seconded the amended motion. Motion passed 6-0.

3. **Resolution 1-2012 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to purchase a 2012 International 7600 Tanker Truck via the Mohave Cooperative Master Purchasing Contract**

Fire Chief Keith Spangler addressed Council stating the purchase of this tender would be an asset to the fire department and the community. Chief Spangler stated the proposed tender is easier to drive and maneuver and more firefighters would be able to operate it. Chief Spangler then stated the tender has front, side and rear spray bars giving it the ability to spray as it's going down the highway for roadside fires, which adds an element of safety, keeping firefighters in the truck instead of having them get out and place hose lines to put out the fire, adding it keeps them out of traffic in the beginning stages of trying to control the fire, which is when it's most dangerous. Chief Spangler then stated the proposed tender has a remote monitor on it which can be operated from the ground, eliminating the fall hazard that exists with the current tender since the firefighters have to get up on the truck itself, to operate its monitor. Chief Spangler then stated the proposed tender will be able to carry the needed equipment in the Forestry Contract and with that, the tender will be able to be a revenue source for the Fire Department and the City, adding the revenue could have a wide range, noting one department in the last season earned \$80,000 in one fire.

Chief Spangler then addressed the service, maintenance and warranty of the proposed tender, adding the key to the life of any apparatus is scheduled maintenance. Chief Spangler then stated he had spoken with

Finance Director Jim Cox, and in the memo he had given Council, it explains the cost of the proposed tender, adding there is a shortfall between what is in the truck fund and the price, therefore, at Mr. Cox's suggestion, \$165,000 would come from truck fund, the remaining \$42,000 would come from bond proceeds with Council approval.

Councilmember Sacco asked about the possibility of receiving a grant to help with a portion of the costs with Chief Spangler stating in July, he had applied for a grant for apparatus from the Assistance to Firefighters Grants, but had not heard any results, adding the administration of the funding continues throughout the calendar year, with the recipient not being notified until the time funds are disbursed. Chief Spangler then stated to get the apparatus right away and to have it available for the upcoming fire season, it would not be feasible to wait. Discussion then focused on the cost of the proposed tender with Chief Spangler stating he was able to utilize the Mohave Purchasing Agreement, giving the City the best discount, adding RWC International likes volunteer fire departments and gave a 23% discount off the truck, in addition to the Mohave discount of 20% for a total of 43% off the cost of the truck.

Councilmember Lambert asked if the grant Chief Spangler applied for was awarded, could the funds be used to offset the purchase of the proposed tender with Chief Spangler stating the grant application was for a specific apparatus and could not be used for any other apparatus. Councilmember Brooks then asked about the possibility of being awarded the grant prior to the end of the current fiscal year and how often grants are available for fire equipment with Chief Spangler stating there are a couple of grants we can apply for each year; the State Forestry Division grant through the Forest Service and the BLM grant, adding we have received equipment the last 3 years from that grant and had an application in this year for equipment, but it was denied. Chief Spangler then stated he had no way of determining if any other grant would be awarded this fiscal year.

Council then discussed the possibility of revenue from the proposed tender with Chief Spangler stating through the cooperative rate agreement with the State Forestry Division, the tender could be a revenue source, adding tenders are billed at approximately \$120 per hour and usually when there is an assignment, it is for 2 weeks at a time with 10-16 hours a day. Councilmember Maldonado stated the fire season is coming up and we should move forward on this opportunity.

Vice Mayor McGoffin stated she understood the bond proceeds were to be used for infrastructure and would feel more comfortable pulling the needed funds from the General Fund instead of the bond proceeds with City Manager Glenn Nichols stating the funds could be used from the Grants fund, if Council chose to use funds in the General Fund, adding Finance Director Jim Cox felt this purchase fell under the parameters of the bond proceeds and had recommended it as the source of funds. Councilmember Moncada then asked about designating any revenue from the proposed tender to repay the bond proceeds with Vice Mayor McGoffin stating she would prefer to do that. City Attorney Michael Masee then addressed Council stating any revenue made on the cooperative agreement using equipment would go to the General Fund and would be unrestricted and would require an ordinance or resolution to restrict it to some particular use or Council could make sure it's in the next year's budget to set aside that money for a particular purpose.

Vice Mayor McGoffin then moved to approve Resolution 1-2012 with the stipulation of the additional needed funding in the amount of \$42,104.63 be paid for out of the bond proceeds for this year and Council will work on repaying the bond proceeds during budget meetings. Seconded by Councilmember Brooks. Motion passed 6-0.

4. Update on the Zoning Regulations and General Development Plan Workshops

Building Official Luis Garcia addressed Council stating in the month of November, 4 evening workshops were held; 2 in the School's multi-purpose room with 1 for the zoning regulations update and 1 for the General Development Plan (GDP) update. Mr. Garcia then stated 2 were held at City Hall; again 1 for the zoning regulations update and 1 for the GDP update. Mr. Garcia stated in December, they held a day-long open house at City Hall for the zoning regulations update and a separate day-long open house for the GDP update. Mr. Garcia then stated in the last week, two more workshops were held at Cochise College Benson Center, with 1 for the zoning regulations update and the other for the GDP update. Mr. Garcia then stated

all of the meetings had minimal turn out, but Staff did collect comments which were being compiled to be able to be reflected in the drafts that will come to Council. Mr. Garcia stated this ends the workshop schedule and he was now working to be able to propose a worksession with Council, adding all meetings were advertised in the utility bills, online via the City's website, were posted at City Hall, the Library and the Post Office and they also utilized the Benson Visitor Center marquis to be able to advertise these meetings. Mr. Garcia then stated if anyone had any other comments on the GDP, they should submit them to Staff by the end of January, which will allow Staff to compile these comments and send the draft document to the Department of Commerce for their review, adding Staff would also like to be able to address their comments that are applicable.

Vice Mayor McGoffin asked if Mr. Garcia was happy with the attendance and comments, with Mr. Garcia stating the initial intent on holding this many meetings was to be able to get as much participation as possible, adding it was a disappointing turnout, but Staff was still trying to get information out and was still available in the office to meet with people and to receive comments. Councilmember Brooks stated he would like to have a copy of all comments submitted before they were filtered, with the rest of the Council requesting copies also.

5. **Discussion and direction on the use of Transient Lodging Tax (Bed Tax)**

City Manager Glenn Nichols addressed Council stating this item has been brought forward for Council to see how these funds have been used over the last few years, adding they had been given the information on how much bed tax was collected each year up through November, 2011, how much the tourism department spent each of those years, how much money was given to the Chamber of Commerce each of those years, where money was spent for economic development, the total expenditures and the excess expenditures amount spent out of the City's budget each year to support tourism, economic development and the Chamber. Mr. Nichols then stated another element to tourism is the City is a member of the Cochise County Tourism Council, paying \$10,011 each year in membership fees.

Councilmember Brooks stated he looked into the history of the bed tax and had talked to a number of individuals that had something to do with it, adding for their own reasons back then, Council made changes to the allocation of the bed tax and wasn't necessarily sure they had good reasons, but he wasn't there. Councilmember Brooks then stated when the bed tax was considered, there was a hearing held and the hotel and RV owners all came down and realized these monies would be used by the Chamber for advertising different events to bring business to their hotels and RV parks, adding it was the moral center of what that tax was started for and he believes the tax should return to the Chamber for those reasons. Councilmember Brooks then moved to direct City Staff to prepare the necessary resolutions so that in addition to the funds already authorized in Fiscal Year 2011-2012 budget for the Chamber of Commerce in the Community Enrichment Fund; the Chamber receives an additional amount equal to the funds collected in the bed tax in Fiscal Year 2010-2011. Councilmember Brooks then stated this would go back to the previous fiscal year and Council could create a line item for the Chamber equal to the amount of the bed tax in the future, because the City is not allowed to actually delegate the 2% bed tax to the Chamber by law, but this is something the Council could put in a resolution and consider at the next meeting. Councilmember Brooks then stated in the same motion he would also like to direct Staff as part of the budget preparation process for Fiscal Year 2012-2013, that the amount equal to the current bed tax collection in Fiscal Year 2011-2012 be designated as a line item for expenditures for the Chamber of Commerce.

Vice Mayor McGoffin stated she didn't have any problems with the Chamber, but designating the entire bed tax collection would hurt a lot of our other charities and events in the community, like the Butterfield Rodeo, adding there are other good things promoting business in town the Council supports through the Community Enrichment section of the budget.

Councilmember Brooks stated right now and the way it's been, is the Chamber has been getting 1% of the 2% tax, so all the Council is doing is giving them the remaining 1% that morally and originally was set for the Chamber. Councilmember Brooks then stated he believes because of the new Chamber, he thinks that revenue will come back to the City, so if we have the money in the General Fund, and can designate it, he

believes it should be done. Councilmember Moncada then asked how Councilmember Brooks proposed to fund the tourism department with Councilmember Brooks stating it would have to be budgeted for through other funds and may have to come out of the contingency fund until it's budgeted. Councilmember Brooks then stated as far as the visitor's center, the City funded it with \$138,000 last year, saying only \$38,000 of the funding came from bed tax, with the balance coming from the General Fund, and he thinks with increased funding the Chamber can, with more money, do more for the City.

Councilmember Lambert then stated he thought this would be a better discussion to have at a worksession, either at the next meeting or in two months with the start of the upcoming budgets worksessions, since the Council would have to allocate the funds in the budget. Councilmember Lambert then stated in the last year, the City spent \$177,000 in total tourism and economic development expenditures, yet only collected \$74,000 from the bed tax, adding one of the reasons Council looked at increasing the bed tax from 2% to 4% was to offset those expenditures. Councilmember Lambert then stated he felt it would be better to discuss the issue during a worksession or as part of upcoming budget worksessions.

Vice Mayor McGoffin stated she would like to hold the worksession in conjunction with the next couple of Council meetings since there is enough work with the budget at upcoming budget sessions. City Attorney Michael Masee then addressed Council with a point of order, stating there was a motion on the floor, but no second, adding the motion by Councilmember Brooks giving direction to Staff was proper and in order, but would require a second to put it to a vote. Councilmember Brooks then stated the resolution didn't need to be at the next Council meeting, but it is something that needs to be worked on, adding he thinks we need to help the Chamber and he is adamant about them receiving the 2%. Councilmember Brooks then stated as far as where the funding will come from, he thinks the Chamber will bring income to our town. Councilmember Brooks then restated his motion to direct Staff to prepare the necessary resolutions so that in addition to the funds already authorized for Fiscal Year 2011-2012 budget for the Chamber of Commerce in the Community Enrichment Fund, the Chamber receives an additional amount equal to the funds collected from the bed tax in Fiscal Year 2010-2011. Councilmember Brooks then also moved to direct Staff as part of the budget preparation process for Fiscal Year 2012-2013, the amount equal to the current bed tax collection in Fiscal Year 2011-2012 be designated as a line item for expenditures for the Chamber of Commerce. Councilmember Brooks then clarified he would like to combine both motions into one. Motion seconded by Councilmember Sacco. Motion failed 4-2 with Vice Mayor McGoffin and Councilmembers Lambert, Maldonado and Moncada voting nay.

Councilmember Maldonado then moved to give the Chamber the funds they needed and to schedule a worksession with the Chamber before the next Council meeting to come up with something that would work for both the City and the Chamber. Mr. Masee then stated under the agenda description, Council could direct Staff to schedule a worksession, but it would not be appropriate to approve expenditures, adding Council could direct Staff to move in that direction by preparing resolutions or otherwise, but as far as he understood, the funding Councilmember Maldonado was referring to was approved by Council at the December 12, 2011 meeting. Councilmember Maldonado then amended his motion to direct Staff to schedule a worksession with the Chamber before the next Council meeting to work something out. Seconded by Councilmember Lambert. City Manager Glenn Nichols then asked if the Council would like it on or before January 23, with Vice Mayor McGoffin and Councilmembers Lambert and Maldonado stating the 23rd would work. Councilmember Maldonado asked if that would work for the Chamber with Chamber President Jennifer Rush stating if the worksession was held sooner, action could be taken the evening of the 23rd. Councilmember Sacco asked if waiting until the 23rd would create a financial burden for the Chamber with Councilmember Brooks stating the Chamber still had the funding from the Community Enrichment section of the budget approved at the December meeting. Ms. Rush then stated her point was the worksession needed to be held sooner so something for action could be placed on the agenda at the next regular meeting with Councilmember Maldonado stating the reason worksessions are usually held right before the Council meeting is it's the easiest way to get 6 or 7 of the Council together. Councilmember Lambert then stated with the recent approval of funding for the Chamber in the amount of \$19,522.05, he would think the Council would have time to hold the worksession on the 23rd and if need be, have an additional worksession after that. Ms. Rush stated again her concern is if the worksession waits, there won't be anything for the Council to be able to take action on at the next meeting. After a brief discussion on the availability of Council, Vice Mayor McGoffin stated the motion on the floor is to have a

worksession prior to the next regular Council meeting on the January 23, at 6:00 p.m. and that is what was seconded.

Councilmember Brooks then stated he thinks some of this could be worked out ahead of time with some discussions with the Chamber and then the worksession could be held and the Council should be able to take action at the regular meeting, to meet the Chamber's schedule. Councilmember Brooks then asked about amending the motion to include the placement of an action item on the regular Council meeting agenda, adding he thinks the Chamber is concerned about the Council making an immediate decision, but he thinks a few Councilmembers might be able to go to the Chamber and talk about what Council wants to do and then they will all pretty much be ready in the worksession and able to make a decision in the regular meeting that evening. Vice Mayor McGoffin called for a vote with the motion passing 6-0.

EXECUTIVE SESSION: Pursuant to A.R.S. §38-431.03 (A)(3) & (4), for discussion or consultation for legal advice with the attorney or attorneys of the public body regarding the City's position and to instruct its attorney(s) regarding pending litigation, Stagecoach Trails Mobile Home Court (MHC) vs. the City of Benson, Arizona, et. al.

Councilmember Moncada moved to enter into Executive Session with the Mayor and Council, City Manager, City Attorney Mike Masee and the City's outside legal counsel provided by the Arizona Municipal Risk Retention Pool, Mr. Jeff Murray (via phone) and the City Clerk at 8:33 p.m. Seconded by Councilmember Brooks. Motion passed 6-0.

Council reconvened at 8:55 p.m.

EXECUTIVE SESSION: As per A.R.S. §38-431.03 (A)(1), for discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, specifically, the City Attorney

This item was removed from the agenda at the beginning of the meeting.

6. Review of the City Attorney and possible action on the contract for Municipal Legal Services

This item was removed from the agenda at the beginning of the meeting.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Sacco moved to adjourn at 8:56 p.m. Seconded by Councilmember Moncada. Motion passed 6-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk