

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD FEBRUARY 11, 2019 AT 7:00 P.M.
AT THE BENSON COMMUNITY CENTER, 705 W. UNION STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor King called the meeting to order at 6:59 p.m. with the Pledge of Allegiance. Mayor King then introduced Reverend Canon Debbie Royals of St. Raphael in the Valley who gave the invocation.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Vice Mayor Joe Konrad, Councilmembers Pat Boyle, Larry Dempster, Lupe Diaz and Barbara Nunn.

EMPLOYEE RECOGNITION: None

PROCLAMATION: None

PUBLIC HEARING: None

CITY MANAGER REPORT:

City Manager Vicki Vivian addressed Council, giving the dates of upcoming meetings and events.

Thursday, February 21, 2019 – Planning & Zoning Commission, 6:00 p.m., Community Center
Monday, February 25, 2019 – Council Meeting, 7:00 p.m., Community Center

Thursday, February 14, 2019 – Benson City Grille, San Pedro Golf Course
will be having a Valentine’s Day Dinner
from 5:00 p.m.- 7:00 p.m. Reservations Recommended

Thursday, February 14, 2019 – Library Guest Speaker Bob Nilson, 10:30 a.m., City Library
City of Benson – Tourism Department
“Benson photos now and then”
Benson photos from 100 years ago and new photos taken from the same
place and angle today.

Monday, February 18, 2019 – Presidents’ Day – **City Offices Closed**

Thursday February 21, 2019 – Library Guest Speaker Ann Gurr & Jean Sneed, 10:30 a.m., City Library
Cave Unit Ranger II and Volunteer – Kartchner Caverns State Park
“The Bats of Arizona” General information on bats (where they live, what
they eat) and which families/species of bats live in Arizona

Thursday February 28, 2019 – Library Guest Speaker Donna Morley, 10:30 a.m., City Library Benson
Hospital Director of Nutrition Services – Healthy Eating

NEW BUSINESS:

1. **Discussion and possible action on the Consent Agenda**

1a. Minutes of the June 11, 2018 Worksession

- 1b. Minutes of the July 9, 2018 Regular Meeting
- 1c. Minutes of the November 13, 2018 Regular Meeting
- 1d. Minutes of the January 7, 2019 Regular Meeting
- 1e. Resignation of Bruce Botts from the Planning and Zoning Commission
- 1f. Appointment of Dennis Bringham to the Benson Planning & Zoning Commission
- 1g. Resolution 3-2019 of the Mayor and Council of the City of Benson, Arizona, authorizing the Chief of Police to apply for a Governor's Office of Highway Safety Grant to fund equipment purchases and overtime
- 1h. Invoices processed for the period from January 16, 2019 through January 30, 2019

Vice Mayor Konrad moved to approve the Consent Agenda. Seconded by Councilmember Diaz. Motion passed 6-0.

2. **Discussion and possible action regarding Resolution 4-2019 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to enter into a letter of appointment with the Office of the State Fire Marshal**

Chief Keith Spangler stated this is a housekeeping item with the Arizona Department of Forestry and Fire Management (DFFM), adding they combined both the Department of Forestry and Fire Marshal and in doing so, they found a lot of agreements that were not consistent and want to correct that. Chief Spangler then stated the City currently has a Memorandum of Understanding (MOU) with the State Marshals office to conduct inspections but they now want a letter of agreement instead of the MOU. Mayor King asked if there were any changes to the agreement with Chief Spangler stating this agreement is going to give the Fire Department more authority over buildings and above- and below-ground tanks, adding it covers basically anything that the State Fire Marshal has jurisdiction over within the City and therefore the City would be able to do plan reviews and things like that.

Councilmember Diaz asked if it covers the State and County buildings with Chief Spangler stating it covers State, Federal, County buildings and the schools, adding it is anything the State has jurisdiction over. Councilmember Diaz asked if the City has had these duties before with Chief Spangler stating the City did do inspections under the current MOU, but with the new letter of agreement, the City will also perform plan reviews and the inspections on the above- and below-ground tanks. Councilmember Diaz asked about liability should litigation occur with a County or State building and who would be representing the Fire Department if there were a question of litigation for a federal building with Chief Spangler stating he was not sure, but he believes the City and State would help, adding that would be a question for the City Attorney. City Manager Vicki Vivian asked City Attorney Gary Cohen (who attended the meeting telephonically) if the liability would fall on the City if the City were to perform an inspection and give that information to the state. Mr. Cohen stated it would probably be a joint effort with the City and State. Ms. Vivian stated if there is a lawsuit filed regarding a County, State or Federal building, she was sure not only the appropriate jurisdiction would be named, but the City would probably also be named even if the City bore no responsibility, adding the same thing, with the City being named in a lawsuit, can happen anywhere in the City.

Councilmember Dempster asked if there was a cost and would the State be paying for these services with Chief Spangler stating he doesn't know what the fee schedule is, but the letter of agreement does indicate that the State will pay fees, however, the City would have to adapt the fees for these services to the fees listed on the State Fee Schedule. Chief Spangler then stated this is something the Building Department will take care of as the Building Department acts as the Fire Marshal and actually does the plan review.

Councilmember Diaz stated he sees there will be an annual site audit, and asked if the Fire Department keeps records on that now with Chief Spangler stating anytime an inspection is done, there are records kept, adding whether the inspection is for Wal-Mart or a County building, the inspection report is retained. Chief Spangler then stated the State does not currently perform audits, although they require the records to be available to them.

Councilmember Boyle moved to approve Resolution 4-2019. Seconded by Vice Mayor Konrad. Motion passed 6-0.

CALL TO THE PUBLIC:

Dan Barrera, owner of the Quarter Horse Motel in Benson stated he would like to address Council about the celebration of the Quarter Horse Motel, adding in 1969 his in-laws Bill and Tula Swafford came out to Benson and purchased the Quarter Horse Motel located 800 W. 4th Street, noting in 1969 Benson was a busy thoroughfare with 4th Street and no bypass on Interstate 10. Mr. Barrera then stated they were renting every room as fast as they could. Mr. Barrera then stated in February the hotel will have been in operation for 50 years as a family business, adding he and his wife took over the operation in 1989 and put in 50 RV sites, a total of 15 mobile home sites, a total of 10 mobile homes that they rent, 4 additional motel rooms and a fantastic iconic neon sign that says, "Quarter Horse Motel and RV". Mr. Barrera then stated the hotel will host a celebration on February 23rd from 12 p.m. till 2 p.m. with refreshments and history to share. Mr. Barrera stated the hotel is a customer of the City of Benson and love the way 4th Street looks, adding he appreciates all that the City is doing and would like to extend an invitation to the Council and City Staff, as well as the public to come to the celebration on Saturday.

Stephen Insalaco, Pinto Place, J6, stated he would like to address Council on another piece of legislation being proposed by the state capital, adding State representative Shawna Bolick amongst others has proposed a House Bill that would abolish the application of sales tax on all food items through the state. Mr. Insalaco stated House Bill 2158 carries the title of Food; Municipal Tax Exemption and the bill, if passed, will eliminate by state law all sales tax imposed by municipalities on groceries in Benson. Mr. Insalaco stated the bill has gained movement on the notion that consumers should not be charged sales tax on essential items such as food, arguing that its like charging sales tax on air, water and medicine. Mr. Insalaco stated he has personally heard, while standing in checkout lines, store patrons complaining about Benson having the high sales tax rate and the application of sales tax on food has left Benson with a stigma that is driving food shoppers away, adding he feels the Fry's on Houghton and the Safeway in Vail are taking Benson patrons away. Mr. Insalaco then stated it is well understood that he does not live within the Benson City limits, but it is equality understood that he has identified with this community for nearly two decades, adding he shops in Benson and like everyone else, he looks for the best deals. Mr. Insalaco then stated his dedication to this community tells him to shop local but there's another voice in his head that tells him to shop somewhere else for food, adding it puts him in conflict between two sets of values that he holds dearly. Mr. Insalaco stated of the 50 states he has only been able to identify 6 states that impose a state sales tax on food and he has found no counties in Arizona that do so. Mr. Insalaco stated in the City of Benson there is a 5.6% state sales tax, 0.5% county tax and 3.5% municipal tax for a grand total of 9.6% sales tax on non-food items; a 3.5% sales tax on food and a 2% bed tax on hotel rooms. Mr. Insalaco then stated Bisbee, Tombstone and four other small communities have the same overall 9.6% sales tax rate, but other cities such as Flagstaff, Tucson, Phoenix, Mesa, Paradise Valley and Prescott, which are municipalities much larger than Benson have a combined sales tax lower than Benson and do not charge sales tax on food. Mr. Insalaco stated the highest combined state county and municipal state tax in Arizona is Williams at a whopping 10.4% but even they eliminated their 2% sales tax on food in March 2013. Mr. Insalaco then stated he has identified 7 municipalities in Arizona that do charge a municipal sales tax on food: Gilbert – 1.5%; Chandler – 1.5%; Peoria – 1.6%; Scottsdale – 1.5%; Tempe – 1.8%; Glendale – 2.5% and Benson with a whopping 3.5%. Mr. Insalaco stated Benson's tax rates do not entice winter visitors with an incentive to come to Benson. Mr. Insalaco stated in his opinion, shoppers would be more tolerant of a higher sales tax on non-food items without the 3.5% tax on food, adding his suggestion is to beat House Bill 2158 to the punch and abolish the municipal sales tax on food before House Bill 2158 becomes law, showing that the City has resolved an ethical issues on its own rather than be forced to conform to the State law. Mr. Insalaco then stated the Council should then increase the municipal sales tax on non-food items to offset the loss of sales tax on food, but stated the increase should be less than 3.5%. Mr. Insalaco then stated the City should seek additional residents and retail opportunities to bring more commerce to Benson and balance the City budget on the volume of sales instead of high sales tax, adding after this is accomplished the City could then reduce the overall sales tax rate to make Benson competitive with other sunbelt communities and capture a larger share of winter visitors.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Boyle moved to adjourn at 7:20 p.m. Seconded by Councilmember Nunn. Motion passed 6-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk