

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

**CALL TO ORDER:**

Mayor King called the meeting to order at 7:01 p.m. with the pledge of allegiance. Mayor King then introduced Pastor Kirk Sorenson of the Assembly of God who gave the invocation.

**ROLL CALL:**

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

**EMPLOYEE RECOGNITION:** Vice Mayor McGoffin recognized Travis Deskins for having 5 years of service with the City of Benson.

**PROCLAMATION:** Mayor King asked Councilmember Sacco to read a proclamation declaring April 13th and 14th, 2012 as days set aside for the distribution of Forget-Me-Nots from the Disabled American Veterans. Councilmember Sacco then presented the proclamation to Mr. Ron Cox of the DAV and thanked the veterans for their attendance and service.

Mayor King asked Councilmember Moncada to read a proclamation declaring the weekend of April 27th, 28th, and 29th, 2012 as “Benson Bluegrass Festival Weekend.”

Mayor King then asked Councilmember Brooks to read a proclamation of the Mayor and Council declaring the month of April as “Fair Housing Month.”

**PUBLIC HEARING:** None.

**CALL TO THE PUBLIC:**

Greg Hall, Director on the Board for the Chamber of Commerce addressed the Council regarding the Chamber’s upcoming “Sun and Stars” event on June 16, 2012, stating the event would mainly be held at the school. Mr. Hall stated the auditorium would be utilized during the day, with their keynote speaker being Mr. David Levy, the Comet Finder. Mr. Hall then stated they will have telescopes set up in the field during the day to look at solar flares and at night they will have two astronomy clubs helping people with telescopes, adding people can bring their own telescopes also. Mr. Hall then stated they will have a “Hot as the Sun” chili cook-off and the winner will be entered into an international chili cook-off in West Virginia.

Don Buchanan addressed Council regarding the planning and zoning process in Benson, stating he believes there is a serious deficiency in the approach of some Benson personnel and appointed committees, adding he doesn’t consider it anything personal, but a culture that seems to reside in Benson and has for some time. Mr. Buchanan then stated the only philosophy that appears to be that if someone promises to follow regulations, Benson doesn’t care about what kind of people they deal with. Mr. Buchanan then stated this is demonstrated in the recent conditional use permit granted to Matinee Energy, adding Matinee Energy has never completed a project in the USA and there are no power lines close enough to carry the wattage they claim to be preparing for. Mr. Buchanan then stated even though Matinee Energy claims they have a budget of \$444 million, they can’t or won’t talk about putting up a performance bond. Mr. Buchanan then stated he hopes a solar field will be developed but predicted the land clearing will start, Mr. Graves, the developer and real estate salesman, will make a little money and Matinee will disappear leaving bunch of unhappy and poorer investors, adding Mr. Graves wants to recoup his investment and doesn’t necessarily

care what happens after that. Mr. Buchanan then stated the four people who voted for the conditional use permit should resign and not be reappointed to the Planning & Zoning Commission.

J.T. Moffett addressed Council stating he is dropping the effort to recall Councilmember Lambert and doesn't want any part of it, adding he reacted to the threats of lawsuits against the City, instantly going on the attack to try and circumvent them, but in his research, found more fault with the Chamber of Commerce than with Councilmember Lambert. Mr. Moffett then stated he had a lot of misinformation fed to him by the Chamber Director Marc Washington and the Chamber Board and apologized for not doing further research before he took action. Mr. Moffett then stated he was here to publicly say he met with Councilmember Lambert and they were on the same page and with the recall effort being dismissed, he would save the City \$10,000, which, hopefully, could be used to buy the fire department a pump they need. Mr. Moffett then discussed the golf course and the information given to Council by the City's Finance Director, stating Council should have a copy of the golf course expenditures and be able to see for themselves that at the end of June, we're expecting an \$84,000 loss above and beyond what Mr. Hartley is giving us. Mr. Moffett then stated he found it unforgivable that the Finance Director would say to the public and the Council that no money from the City was used for the golf course and felt the Finance Director owed the Council and the City an apology. Mr. Moffett then stated the Finance Director said the City has until August 2014 with the golf course, but since the City took the course over in November, 2010, the 32 month agreement with Mr. Hartley would expire in July, 2013, adding this is right around the corner and he doesn't see how the City can overcome a \$384,000 deficit, which is what it will be at that point. Mr. Moffett then stated this is a devastating loss to look at and the City should be taking care of its employees and the fire and police departments instead. Mr. Moffett then asked the Council to put him on the agenda at a future Council meeting so he could present a well thought-out and researched proposal concerning a few budget matters such as the Chamber of Commerce, the golf course and the police and fire departments. Mr. Moffett then stated he would present it in a professional manner and thanked the Council for their time.

Tom Fitzgerald addressed Council stating he couldn't be at the 6:00 p.m. Council meeting but would be providing Council with letters that reiterate his opinion about the Planning & Zoning Commission. Mr. Fitzgerald then stated in the future, he will be offering that and possibly part of the forum that was held on March 15, adding he will send it to the City Clerk to disburse to Council, along with his feelings about Title 9, Chapter 4 and what it says on the Planning & Zoning Regulations and how it enhances the General Development Plan and how it has to follow it.

### **CITY MANAGER REPORT:**

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

- April 10, 2012 – Library Advisory Board, 4:00 p.m., Library
- April 16, 2012 – City Council Worksession, 6:00 p.m., City Hall  
City Council Public Hearings – CDBG Projects, 7:00 p.m., City Hall
- April 21, 2012 – Historic Preservation Commission, 9:00 a.m., City Hall
- April 23, 2012 – City Council Public Hearings – General Development Plan & Zoning Regulations, 7:00 p.m., City Hall  
City Council Meeting, 7:00 p.m., City Hall
- April 24, 2012 – Community Watershed Alliance, 6:30 p.m., City Hall
  
- April 14, 2012 – Little League Opening Ceremonies, Parade at 9:00 a.m. and Ceremonies start at 10:00 a.m. at Lions Park
- April 21, 2012 – Benson's Relay for Life Event, Lions Park
- April 27, 28 & 29, 2012 – Bluegrass in the Park, Lions Park

Mr. Nichols reminded those present of the continuing work on the I-10/State Route 90 Traffic Interchange project, adding up-to-date information can be found at [www.azdot.gov](http://www.azdot.gov).

Mayor King invited those present to participate and be involved in the Benson Relay for Life, adding it is a life changing experience and will be a fun evening with a lot of surprises and again encouraged people to come out and enjoy the evening. Mayor King then stated he would also like to invite everyone to the Bluegrass Festival and the Little League opening ceremonies, adding they love to have a lot of people there and the kids worked hard to get ready for the opening. Councilmember Brooks then noted a special Planning & Zoning meeting had been called, with Building Official Luis Garcia confirming a special Planning & Zoning meeting would be held on April 10 at 7:00 p.m. for possible action regarding the General Development Plan and the Zoning Regulations recommendations to the Council.

## **NEW BUSINESS:**

### **1. Consent Agenda**

- 1a. Minutes of the March 26, 2012 Regular Meeting
- 1b. Resolution 15-2012 of the Mayor and Council of the City of Benson, Arizona, adopting a Fair Housing Policy making known its commitment to the principle of Fair Housing and describing actions it shall undertake to affirmatively further Fair Housing
- 1c. Contract between Ben Sandoval Productions and the City of Benson for the 2012 Benson Bluegrass Festival
- 1d. Invoices processed for the period from March 15, 2012 through March 28, 2012

Vice Mayor McGoffin moved to approve the Consent agenda. Seconded by Councilmember Brooks. Motion passed 7-0.

### **2. Resolution 16-2012 of the Mayor and Council of the City of Benson, Arizona, approving a contract with Motorola Solutions, Inc. in the amount of \$121,474.56 for the purchase and installation of communications equipment**

Fire Chief Keith Spangler stated this grant was applied for in the amount of approximately \$300,000 this time last year, but the award is approximately half of what was applied for. Chief Spangler then stated with the grant award, we are able to get a dispatch communications system upgrade so the Police Department can dispatch for Mescal Fire, Pomerene Fire and St. David Fire along with Benson Fire, adding this will enable more channels to be operated in the communications center along with those separate tones. Chief Spangler then stated this contract in the amount of \$121,474.56 is for the console, the radios, and what is needed to upgrade the dispatch center, but does not include the recorder that will be purchased with the remaining amount of the awarded grant funding. Councilmember Brooks asked about software and screen visibility or if it was beyond the scope of the communications with Chief Spangler stating the contract included no locator devices, but was mainly radio equipment and computer screens to operate different portions of the system. Councilmember Brooks asked if this contract price was close to what was budgeted with Chief Spangler stating the entire amount applied for was budgeted, adding since this contract is all grant funded, there is no cost to the City.

Councilmember Lambert asked about backup in case the internet services went down with Chief Spangler stating his role has been to facilitate the funding for the dispatch center upgrade through the grant, but Chief of Police Paul Moncada was in charge of the dispatch center and would be more qualified to answer technical questions. Councilmember Lambert then asked about conforming to the mandated conversion to a digital system with Chief Spangler stating any radio purchased after 2008 has to be compliant, so when the government mandates the change to digital, all that has to be done is a switch internally being programmed and they become digital. Councilmember Brooks asked about truck-to-truck communication with Chief Spangler stating they will keep that communication operating through regular radio waves, adding he knows they will be staying with the same frequency and will be narrowing band frequency for all of our fire frequencies when the changes take place. Councilmember Lambert then moved to approve Resolution 16-2012. Seconded by Councilmember Sacco. Motion passed 6-1 with Councilmember Brooks

voting nay.

3. **Discussion and possible action to appoint a Selection Committee to review the Municipal Legal Services (City Attorney) Proposals**

City Manager Glenn Nichols stated at the March 26, 2012 Council meeting, it was decided the selection committee would consist of 3 Councilmembers, the City Manager and citizens, with each Councilmember who would not be serving on the committee giving the City Clerk 1 or 2 names of people they would like to see on the committee. Mr. Nichols then stated the City Clerk would then contact those people and see if they would be willing to serve and the appointment of the committee would be done at a future Council meeting. Mr. Nichols then stated the 3 names submitted to the City Clerk were Jeff Cook, Jim Mellentine and J.T. Moffett, all of whom were willing to serve. Mr. Nichols then stated another option would be for the Council to serve as the committee; they could go through the process to review the applications, and have the ability to choose which of those or all of those they would like to interview. Mr. Nichols then stated the interviewing could be done in an executive session with the selection being done in an open meeting. City Clerk Vicki Vivian then addressed Council stating she received the additional name of Mike Borders, who was also willing to serve on the committee. Councilmember Sacco then asked if the proposals were submitted to the City Manager and if Staff would be screening the proposals with Mr. Nichols stating the proposals were submitted to the City Clerk's office. Ms. Vivian then stated the proposals were sealed and would remain unopened until 3:00 p.m. on April 16th, which is the deadline for submissions, adding the committee will be screening the proposals.

Discussion then focused on the makeup of the committee with Councilmembers Brooks, Lambert and Moncada feeling it may be beneficial to have the Council serve as the committee, and Councilmember Maldonado stating he would like to see citizens serve on the committee. Vice Mayor McGoffin stated with the current demands of being the Chairman for the Relay for Life, the EDSC, Council, upcoming budget meetings, work and family obligations, it may be hard for her to attend the committee meetings. Vice Mayor McGoffin then stated she spoke with Mr. Borders, a criminal psychologist and thinks he would be a great choice for the committee, but she would agree with the Council in their decision. Councilmember Brooks added if a Councilmember couldn't be on the committee, they should be able to appoint someone as their representative.

Discussion then moved to the process of reviewing the proposals, interviewing the candidates in executive sessions with the same questions being asked of each candidate and making a selection in an open meeting with the Council recognizing the process could take a couple of months since the Council has upcoming budget meetings.

Vice Mayor McGoffin then asked if the committee was comprised of citizens along with 4 or more Councilmembers, would the citizens be covered under the executive session law with City Attorney Mike Masee stating the committee would be the body voting to enter into an executive session, however, with a quorum of Council on the committee, it would be a grey area. Mr. Masee then stated not only would the body have to vote to enter into an executive session, but in personnel matters, the subject person must be notified at least 24 hours in advance of the executive session and could then demand the matter be held publicly, so there is always a chance an executive session would not occur.

Mr. Nichols then addressed the Council stating if the committee consisted of both Council and citizens, they could do the initial review of the applications and recommend to the Council who they thought might be qualified and then the Council could go into executive session to interview each of those applicants and could then make a decision in an open meeting. Mayor King and Councilmembers Maldonado and Moncada stated they liked this idea also, with Mayor King stating this allows citizen participation, but also allows Council to have the final decision. Councilmember Brooks dissented stating he liked the idea of Council looking over the applications, eliminating proposals that don't fit and then voting on a candidate.

Vice Mayor McGoffin then moved to appoint the 4 citizens, Mike Borders, Jeff Cook, Jim Mellentine and

J.T. Moffett along with Councilmembers Brooks, Moncada and Sacco to the selection committee to narrow the proposals down and bring their selections to the Council for the Council to interview applicants in an executive session, after which Council will make a selection in an open meeting. Seconded by Councilmember Moncada. City Manager Glenn Nichols stated someone from Human Resources would also be present for the procedures.

Councilmember Lambert stated he would like to see the interviews done in an open meeting with citizens being allowed to submit questions in writing for the Council to use in all interviews and asked Mr. Masee for his opinion on this process with Mr. Masee stating the open meeting law's strong default position is for meetings to happen publicly, adding in Nogales, interviews for the City Manager were held publicly also. Councilmember Brooks stated he had first thought he would like to hold the interviews in a public meeting, but he knew of a few legal service businesses that he would not recommend and would like to be able to inform Council of such and would prefer to do so in an executive session. After no further discussion, motion passed 7-0.

4. **Resolution 17-2012 of the Mayor and Council of the City of Benson, Arizona, recommending approval of the issuance of a Series 12 (Restaurant) Liquor License at Pablo's Steaks and More, 687 W. 4th Street, Benson, Arizona**

City Clerk Vicki Vivian stated Pablo's Steaks and More applied for a liquor license application, the City has followed the State procedures, according to ARS §4-201, and has received no written arguments for or opposed to the issuance of the license. Ms. Vivian then stated we are now at the step where the local governing body would recommend approval or disapproval and once Council makes their decision and recommendation, the paperwork will be forwarded to the Arizona Department of Liquor Licenses and Controls who will then take on the process of either issuing the license or not. Mayor King invited the applicant, Margaret Rose to come forward. After no questions were presented, Vice Mayor McGoffin moved to approve Resolution 17-2012. Seconded by Councilmember Maldonado. Motion passed 7-0.

5. **Resolution 18-2012 of the Mayor and Council of the City of Benson, Arizona, declaring as a Public Record those certain documents filed with the City Clerk and entitled "Chapter 7, 'Development Services'" and "Chapter 7.1 'Administrative Hearings'"**

Mayor King stated he would like to address some of the questions presented to him prior to the meeting, then stated if the resolution was approved, it would declare the documents a public record, but a decision to approve the documents would not be made tonight, adding that decision would come back to the Council at a future meeting.

Building Official Luis Garcia then addressed Council stating this item came forward at a previous City Council meeting and is solely a draft with the resolution declaring the draft a public document as was done with the proposed Zoning Regulations and the General Development Plan. Mr. Garcia then stated the draft edition of this regulation update will be accessible to the citizens of Benson, adding the intent of this action is to foster better dialogue between the public, Staff and appointed and elected officials. Mr. Garcia stated the Planning & Zoning Commission will meet on April 10th to consider the Zoning Regulations and the General Development Plan, adding Chapters 7 and 7.1 tie in with the Zoning Regulations with enforcement procedures references. Mr. Garcia then stated the proposed chapters are very similar to the previous chapter presented to Council in a worksession last August or September, adding the chapters presented tonight are more user-friendly and contain some senate bill legislation compliance. Councilmember Sacco then stated the Council is only voting on making the proposed chapters a public document and wanted to make that clear. Councilmember Lambert then asked about continuing the worksession on April 16th at 6:00 p.m. with Mr. Garcia stating the intention was to discuss the proposed General Development Plan and more specific sections of the Zoning Regulations. Councilmember Sacco then moved to approve Resolution 18-2012. Seconded by Councilmember Lambert. Motion passed 7-0.

**DEPARTMENT REPORTS:** None

**ADJOURNMENT:**

Councilmember Lambert moved to adjourn at 8:07 p.m. Seconded by Vice Mayor McGoffin. Motion passed 7-0.

ATTEST:

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Toney D. King, Sr., Mayor

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Vicki L. Vivian, CMC, City Clerk