

**THE SPECIAL MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JUNE 18, 2015 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.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Councilmembers Pat Boyle, Jeff Cook, Joe Konrad and David Lambert. Absent was: Vice Mayor Lori McGoffin, Councilmember Chris Moncada.

PUBLIC HEARING:

Mayor King opened the public hearing to receive comments and questions from the public regarding the proposed City of Benson Fiscal Year 2015-2016 Tax Levy and Truth in Taxation at 7:03 p.m. Mayor King stated no one had signed up to speak and then asked if there was any one present who would like to speak. Finance Director Dustin DeSpain asked if the Mayor and Council had any questions. Mayor King explained that the tax levy is looked at every year and the increase is not very much at all. Mayor King then asked Mr. DeSpain how much it would be increasing; Mr. DeSpain explained that last year the rate was .5531% and the proposed rate is .5838% per \$100.00. Councilmember Boyle asked how much the increase rate will generate in the new fiscal year with Mr. DeSpain stating it amounts to \$12,000. Councilmember Boyle remarked that the new rate was not a large increase. Mr. DeSpain then explained that the property taxes collected are based on property values and that the Council usually approves an adjustment in the levy rate to keep the total property tax income at \$230,000 per annum. Mayor King asked if there were any more questions. Councilmember Cook questioned collecting an additional \$12,000 and asked how that could not be considered an increase with Mr. DeSpain explaining that property values are set by the County each year and the City simply adjusts the tax levy rate to maintain a property tax income of \$230,000. Mr. DeSpain then stated should the Council not approve the tax levy rate; the City would only receive \$218,000. City Manager William Stephens then stated the increased tax levy rate is not a \$12,000 increase in property taxes, noting the property tax collections would actually decrease \$12,000 should the Council decide not to approve the proposed rate and the current rate stay in effect. Mr. Stephens then stated the City simply adjusts the tax levy rate to keep the property tax collection amount nearly the same as it has been year after year, which is the amount in the proposed budget and is used for public improvements for the citizens of Benson. Mayor King then closed the public hearing at 7:06 p.m.

PUBLIC HEARING:

Mayor King opened the public hearing to receive comments and questions from the public regarding the City of Benson Fiscal Year 2014-2015 Tentative Budget and the Capital Improvement Plan for 2015-2020 at 7:06 p.m. Mayor King stated only one person signed up to speak and invited Tom Myers to address the Council.

Mr. Myers stated most of the Council knows his only issue, adding he was not going to demand answers or ask the Council questions about golf carts at the golf course or anything of that nature. Mr. Myers then stated his only issue is the rental tax and that he wondered how rental tax feeds into taxation in general. Mr. Myers then stated the Council recently increased the sales tax rate by 1% on almost everything except rentals, adding the bottom line is that the tax for residential rentals is 2.5%. Mr. Myers then stated he has an axe to grind as a landlord with five rentals, adding he has always paid this tax and he has a business license and a transaction privilege tax license which is quite a nuisance. Mr. Myers then stated in theory, he should pass the rental tax onto his residents but in reality, he has to swallow the tax to be competitive, adding people don't care about the tax as long as it's not coming out of their pockets. Mr. Myers then

stated he has 5 houses and at \$25.00 per house; it adds up to \$125.00 per month that he has to pay and since he is the only one who complains that no one is paying this tax, the realtors come after him. Mr. Myers then stated he waited a year for a new City Manager and then met with him on this issue, adding the City Manager told him that a new Council had to be seated. Mr. Myers then stated the new Council is now seated and asked what the City is waiting for now. Mr. Myers then stated the last thing he heard is that the City is waiting on the Department of Revenue and they don't have enough auditors, adding the City doesn't need auditors to enforce a tax that the City has never enforced. Mr. Myers then stated he heard the City was only getting \$20,000 a year from this tax, but he looked at the budget at the Library and thinks the City might get \$30,000 or \$40,000, adding he's not sure about the amount, but he's positive the Council isn't either. Mr. Myers then stated he is trying to do the right thing and he doesn't have an easy out to not keep paying the tax, adding his only option is to keep coming to the Council until they surrender and fix the problem. Mr. Myers then stated the Council needs to get 80% enforcement on the tax or they cannot have the tax, adding the IRS gets 83% compliance. Mr. Myers then stated the latest numbers he has were given to him by previous Finance Director Megan Moreno and Cochise College, showing the City is collecting \$20,000 in rental tax and should be collecting between \$98,000 and \$150,000, which means there is only 20% to 30% enforcement. Mr. Myers then stated his own estimate is that the City should be collecting \$319,000 a year and about \$2.3 million since he has been complaining. Mr. Myers then stated the Council could stop his complaining any time they want by fixing the issue. Mr. Myers stated other than Ms. Moreno and Finance Director Dustin DeSpain, no one knows as much about this tax than he does, adding he will be at every Council meeting until this gets fixed. Mr. Myers then stated his reason for speaking during the budget hearing is that he wonders what else is not being paid, adding the Council raised taxes the easy way instead of fixing this problem.

Councilmember Boyle asked Mr. Myers if the problem was that not everyone is the rental tax with Mr. Myers confirming it was. Councilmember Konrad stated the Council discussed this in January at the Council retreat and at that time there was pending state legislation to eliminate this tax, but the legislation didn't pass, adding he believes the Council will be pursuing enforcement. Mr. Myers stated that Mr. DeSpain is working on that now. Mr. DeSpain then stated he has been working with the State to request audits, adding the State has now sent 3 auditors to Benson to make sure all businesses are registered and to give general advice. Mr. DeSpain said the State has also sent out letters to all realtors, adding under the new law the actual owner of the property is responsible for paying the tax; not the realtors, so the City should see an increase in taxes collected in the next few months. Councilmember Boyle asked if there was any way the City could audit this with Mr. Stephens stating many years ago, the Council voted to have the State perform audits and as a result, the City has never budgeted for or had an auditor on staff. Mr. Stephens then stated he is sure there are people not paying their taxes, adding Staff has repeatedly asked the State to come and audit the City of Benson, noting several years ago, a list of businesses the City wanted audited was sent to the State and the State only audited 1 business. Mr. Stephens then stated just recently Councilmember Lambert went to Phoenix to talk to the State employees responsible for performing audits who told him they don't have the money or the staff to perform audits and they won't be performing audits for small towns. Mr. Stephens then stated the state legislation was voted down in January, adding the rental tax remains in place. Mr. Stephens then stated as a result of pressure to perform audits, the State has decided to go out and certify auditors that cities and towns will have to pay to conduct audits. Mr. Stephens then stated the City hasn't received the list of approved auditors yet, but the State has promised to have them come and perform audits. Mr. Stephens then commended Mr. Myers for being honest and doing the right thing.

Councilmember Boyle asked what the past Council voted for with Mr. Stephens stating the past Council voted for the State to collect taxes and be auditors. Councilmember Boyle then asked if this could be reversed with Mr. Stephens saying State legislation was recently passed that requires the State to collect and audit all tax monies and does not allow any other body to perform those duties. Councilmember Konrad asked Mr. Stephens if the City was getting help on this issue from the Arizona League of Cities & Towns with Mr. Stephens stating the League was involved in the process in terms of canvassing the State. Mayor King then stated this is something the Council needs to keep in focus and push forward.

Councilmember Cook stated he is glad the Council is looking at the path of enforcement instead of eliminating the rental tax, adding he has heard that if people are not paying their residential rental tax, the Council should abolish it. Councilmember Cook then stated that would be the wrong thing to do, adding in Bisbee, there are people who are not paying their garbage pickup bills and sewer bills, noting a front page article in a Sunday paper read that the unpaid bills for these City services total approximately \$1,000,000 and if Bisbee were to adopt the logic that if people don't pay for something, the charge or tax should be eliminated, Bisbee would be in an even worse situation than they are now. Councilmember Cook then stated he thinks it's a great thing that the Council is not falling prey to that kind of logic and that the Council is trying to get people to pay the taxes they owe.

Councilmember Konrad asked if the City has a right or the means to send letters to the people who owe taxes since the State is the auditing agent with Mr. Stephens stating the City has placed advertisements in local paper and has held sessions at City Hall regarding the matter. Mr. Stephens then stated Mr. Myers has also contacted people with rentals to find out if they were aware that they should be paying rental tax and reported that a number of those people seemed unaware they should be paying the rental tax. Mr. Stephens then stated the only way 100% compliance can be obtained is through the State with audits, adding it is also within the power of the State to put liens on property if people are not compliant. Mayor King stated the City needs to keep on top of this issue and do everything that can be done. Mayor King then closed the public hearing at 7:26 p.m.

ADJOURNMENT:

Councilmember Konrad moved to adjourn at 7:26 p.m. Seconded by Councilmember Boyle. Motion passed 5-0.

ATTEST:

Toney D. King, Sr., Mayor

Vicki L. Vivian, CMC, City Clerk