

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD JUNE 22, 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 7:04 p.m. with the Pledge of Allegiance.

ROLL CALL:

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

EMPLOYEE RECOGNITION:

Mayor King recognized Susan Vaughn for having 5 years of service with the City of Benson. Ms. Vaughn was not in attendance.

PROCLAMATION:

Mayor King read a proclamation of the Mayor and Council declaring the Month of July "Parks & Recreation Month." Mayor King then presented the proclamation to Laura Parkin, the City's Recreation Coordinator.

PUBLIC HEARING: None

CALL TO THE PUBLIC:

Paul Lotsof, a non-Benson resident, addressed Council stating he was the Manager of the CAVE Eyesore located at 156 W. 5th Street in Benson. Mr. Lotsof spoke about the City Manager's report and that the City Manager would be informing those present about upcoming meetings and when City offices would be closed, adding the report hardly ever informs anyone about anything the City Manager has done, and the thought occurred to him that maybe the City Manager's report would be a perfect time for the City Manager to inform both the Council and the public about what has been going on at City Hall, such as personnel changes, including who has left the City's employ and who the recent hires were along with their credentials. Mr. Lotsof then stated the current issue of the local newspaper contains 3 help wanted ads for the golf course, one being for the golf course superintendent and asked if Mr. DelVecchio was leaving. Mr. Lotsof then stated another thing the City Manager might do is to confirm or deny a widely circulated story that about a week ago a serious malfunction took place at the wastewater treatment plant, with a faulty diagnosis by a high-ranking City official resulting in expensive parts being ordered that were not needed and a City employee nearly electrocuting himself trying to fix the problem, ending with the employee in the hospital. Mr. Lotsof then stated in May, during one of the public meetings on the sales tax increase, he questioned former Finance Director Megan Moreno about the impact of the Stagecoach Trails lawsuit on the City's financial situation and Ms. Moreno strongly hinted that the City plans to file a claim against former City Attorney Michael Masee for mishandling the lawsuit. Mr. Lotsof then stated he also received similar information from another person who is in a position to know and asked if the City was trying to collect cash from Mr. Masee and if so, how much money in legal services the City was going to gamble in this attempt. Mr. Lotsof then stated he saw two recent invoices from the City's present law firm, Mesch, Clark & Rothschild; the March invoice for just over \$17,000, which may be an all-time record expenditure for a month of legal services for the City of Benson, and the April invoice in the amount of \$9,000. Mr. Lotsof then stated this is at a time when the City is supposedly attempting to trim expenses and asked what could possibly explain these bills. Mr. Lotsof then stated he would take exception to the notion that the public has no right to have answers to these questions due to the attorney/client privilege because the money to pay Mesch, Clark & Rothschild is coming from the taxpayers of Benson so the taxpayers of Benson are the clients. Mr. Lotsof then stated he had a few questions pertaining to the proposal to start a

Community Facilities District at the request of El Dorado Holdings, asking why El Dorado is so different from all other developers who have done business in Benson and paid for their own infrastructure. Mr. Lotsof then asked how much money El Dorado proposes to raise from the sale of bonds, what exactly they propose to do with all that money, what happens if all those houses remain vacant because there is no market for them and who pays the bondholders. Mr. Lotsof then asked why a vast number of people would move to a depressed area where there are very few jobs that would permit home buyers to make payments on those houses. Mr. Lotsof then stated El Dorado may be looking for retired people from the chilly mid-west; he then asked why people would move to an area with an elevation of 4,200 ft. where on a winter night, it can be just as cold as it is in Nebraska. Mr. Lotsof then asked what would happen if the City did the unthinkable and declined to establish the district, adding these are just a few questions that if answered, would give the City government more credibility and improve its public relations, but based on past experience, he expects no answers.

Tricia Gerodette, Eagle Ridge Drive, Sierra Vista, stated she was planning on addressing Council about the CFD (Community Facilities District) and she's glad she attended the worksession, adding she was very heartened by Council's questions and concerns and the issues Mr. Cafiso brought up. Ms. Gerodette then stated Mr. Cafiso covered everything she was going to try and say. Ms. Gerodette then stated she hoped the Council would move forward cautiously and ask a lot of questions because as Mr. Cafiso pointed out, a CFD is a perpetual, new entity and is very powerful, adding she hoped the Council would take the time to set it up thoughtfully and carefully and would protect current residents of Benson as well as potential future residents of Benson.

David Thompson, La Cuesta Drive, Benson, stated he was a business owner and a resident of Benson, owning a home here. Mr. Thompson then stated he hears that if El Dorado comes in, people who own homes in Benson will lose because their homes will be older and not desired, but from his point of view, his home is a decent home. Mr. Thompson then stated he also hears the argument that if 2,500 people come to Benson for employment in the proposed development, when they're done, they will leave, adding a lot of those people will leave because they follow construction, but a lot of those people will stay. Mr. Thompson then stated the proposed development is a 20-year project and it will bring progress, business and a tax base to Benson, adding if 1/3 of those 2,500 people stayed in Benson, there would be no need for the recent 1% sales tax increase. Mr. Thompson then stated there are empty buildings, empty RV parks, empty rental houses and houses for sale, adding those would all be gone, because these people will need places to live and places to do business. Mr. Thompson then stated the growth from this development would offer Benson's younger people an opportunity because businesses will spring up, which will result in more employment opportunities. Mr. Thompson then stated that 80% of the argument heard against Benson comes from people who don't even live in Benson, adding it's heard from residents of J-6, Sierra Vista and Tucson. Mr. Thompson then stated he looks at this opportunity as an opportunity for Benson to save its economy, save the town and to give young people something to do in the future, someplace to go and someplace to have opportunities. Mr. Thompson then stated El Dorado talks about building a theater, a golf course, a town center and shops, adding these are all very positive things for Benson's whole environment. Mr. Thompson then stated if 1/3 of the people who come for the employment in the development decided to live in Benson, even Wal-Mart and Safeway would have more shoppers which would mean fresher produce and better meats for the people who live here now. Mr. Thompson then stated he can't see where there is anything negative about it, except the selfishness of the people who are protesting against Benson growing and he doesn't understand that.

Barbara Nunn, La Cuesta Drive, Benson, stated she wasn't prepared to speak, but after listening to the foolishness, she had something to say. Ms. Nunn then stated the Call to the Public started out with the CAVE eyesore and stated it's an eyesore because Mr. Lotsof lets it be that way, yet once again, Mr. Lotsof vilifies the City Manager, adding the City Manager is doing his job and works for the Council. Ms. Nunn then stated Mr. Lotsof sits in the Council chambers and carries on, adding people will listen to the radio and believe everything they hear on the radio and what they read the paper, but everyone knows that's not all true. Ms. Nunn then stated the word "caution" is thrown around and what that really means is that the City Council should drag their feet and maybe El Dorado will just drop Benson and leave. Ms. Nunn then stated the Council has done this before and that is what people are after. Ms. Nunn then stated this month the City lost Jack-in-the-Box and Postal Annex, adding the City doesn't need to lose any more businesses, but needs more people here spending money and everyone knows it.

CITY MANAGER REPORT:

City Manager William Stephens addressed Council, giving the dates of upcoming meetings and events.

- Tuesday, June 23, 2015 – Community Watershed Alliance, 6:30 p.m., City Hall
 - Monday, July 6, 2015 – Benson Economic Development Committee, 6:00 p.m., City Hall
 - Tuesday, July 7, 2015 – Planning & Zoning Commission, 7:00 p.m., City Hall
 - Monday, July 13, 2015 – City Council Meeting, 7:00 p.m., City Hall
- Saturday, July 4, 2015 – Benson’s Annual 4th of July Celebration. Festivities begin at 9:00 a.m. with the parade and will run all day long at Lions Park, ending with the City’s Fireworks show beginning at 8:30 p.m. Go to www.cityofbenson.com for the full schedule of events

Mr. Stephens then stated he would like to remind Council that a full line up of detailed reports from each department is in the Council packets that contain every detail of every issue he’s been involved in. Mayor King then thanked Mr. Stephens for doing his job. Mayor King then stated he wanted to invite everyone to come to the 4th of July celebration, adding since he attended the celebration in Benson, he hasn’t celebrated the 4th of July anywhere else. Mayor King then stated everyone should invite their family and friends, adding once they come to the celebration; they will keep coming back to Benson. Mayor King then stated Recreation Coordinator Laura Parkin and her staff does a great job on this celebration.

NEW BUSINESS:

1. Discussion and possible action on the Consent Agenda

- 1a. Minutes of the May 11, 2015 Regular Meeting
- 1b. Minutes of the June 1, 2015 Special Meeting
- 1c. Resignation of Bob Baden from the Benson Planning & Zoning Commission
- 1d. Invoices processed for the period from May 29, 2015 through June 11, 2015

Vice Mayor McGoffin moved to approve the Consent Agenda. Seconded by Councilmember Konrad. Councilmember Cook then stated he had not received Items 1a and 1b. The other Councilmembers stated they had received those items with Councilmember Cook stating he would abstain from action on the Consent Agenda. Motion then passed 6-0 with Councilmember Cook abstaining.

2. Discussion and possible action regarding Independent Contractor’s Agreements for Consulting Planning Services on an As-Needed Basis

- 2a. Independent Contractor’s Agreement with RICK Engineering for Consulting Planning Services on an As-Needed Basis
- 2b. Independent Contractor’s Agreement with Bowman Consulting Group for Consulting Planning Services on an As-Needed Basis

Public Works Director Brad Hamilton stated these contracts are for planning services, adding Planning Technician Michelle Johnson took the lead on this RFP (Request for Proposals) and was present to answer any questions Council may have. Ms. Johnson then addressed Council stating after the RFP was published, the City received 8 responses from Tucson, Phoenix and one from New Mexico. Ms. Johnson then stated there were 4 people on the review committee including herself; Andrew Abernathy, a professional planner from the area; Mark Apel, the Community Development Coordinator for the U of A Cooperative extension in Sierra Vista and Bisbee; and Jeff Pregler, a Senior Planner with the City of Sierra Vista, who was offered to be on the committee by Don Brush, the Director of Community Development in Sierra Vista. Ms. Johnson then stated after reviewing the submissions, the top scoring firms were RICK Engineering and Bowman Consulting Group, which are both national firms. Mayor King confirmed these contracts will be on an as-needed basis with Ms.

Johnson stating that was correct. Ms. Johnson then stated a preliminary master plan was submitted and approved by Council several months ago, and once the final master plan is submitted, various parts will go to these agencies who will serve as a second set of eyes for the City. Councilmember Moncada asked if the prices on the exhibits were flat fees or hourly charges with Ms. Johnson stating the prices were hourly rates, adding each company offers different services. Councilmember Moncada then asked if the fees were reimbursed by developers with Mr. Hamilton stating the current proposed development on Highway 90 has a development agreement stipulating that the City doesn't charge fees on the master plan, but past that process, the developers will reimburse the costs associated with these services. Councilmember Konrad asked if this was consistent with what other cities do as far as consulting agreements with Ms. Johnson stating it was. Ms. Johnson then stated she also used templates from several other cities, including Florence and Sahuarita, to design the RFP she published.

Councilmember Moncada moved to approve items 2a and 2b; the independent contractor's agreements with Rick Engineering and Bowman Consulting Group for consulting planning services. Seconded by Councilmember Lambert. Motion passed 7-0.

3. **Discussion and possible action regarding Resolution 19-2015 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing execution of a Base Hospital Agreement with Carondelet Health Network for support of the City's emergency medical services**

Fire Chief Keith Spangler was not present due to being dispatched on a Fire Department call. Councilmember Konrad asked if there was a timeline the Council was bound to for the renewal of this contract with Councilmember Moncada stating the current contract expires on July 1. Public Works Director Brad Hamilton addressed Council stating the Fire Department has to have a base hospital to be able to provide medical services. Councilmember Konrad confirmed the contract was for a one-year period and that the contract would be up for renewal in 2016, adding other hospitals are currently working to form a coalition and may wish to be part of this contract in the future.

Councilmember Konrad moved to approve Resolution 19-2015. Seconded by Vice Mayor McGoffin. Councilmember Cook asked if there were any changes from the current contract with City Manager William Stephens stating the effects of the contract were the same. Motion passed 7-0.

4. **Discussion and possible action regarding Intergovernmental Agreement with the Arizona Department of Revenue related to Uniform Administration of the City's Transaction Privilege Tax**

Finance Director Dustin DeSpain stated this is a new agreement with the Arizona Department of Revenue (ADOR) to collect sales tax, adding the new agreement is needed to comply with new State laws and must be approved by July 1. Mayor King asked about the changes in the agreement with Mr. DeSpain stating ADOR will now be the City's full collection and auditing authority, adding this is not different from what is in place now, however, more details on ADOR's responsibilities have been included. Councilmember Boyle verified that the City really didn't have an option with Mr. DeSpain confirming Councilmember Boyle was correct. Mr. DeSpain then stated if the Council didn't approve the new agreement; the City would be out of compliance with State laws. Councilmember Lambert then stated this agreement is to get cities in line with the Model City Tax Code, adding the State had a lot of changes last year and this agreement brings the City into compliance with those changes. Councilmember Moncada mentioned the State being the sole auditor and then said (4.3 Audits and Refunds) Section A reads that "City/Town may conduct an audit of a taxpayer engaged in business only in City/Town. Before commencing such audit, City/Town shall notify the Department to ensure the taxpayer is not already scheduled for an audit. The Department will provide City/Town with a written response within fifteen calendar days..." Councilmember Moncada then asked if the City could still perform audits of businesses that are only engaged in the City of Benson with Mr. DeSpain stating the City can request audits, but must notify ADOR and they will inform the City who the private auditor for that request will be. City Manager William Stephens stated the City will then have to pay to have that audit done. Councilmember Moncada then confirmed the audit will not be performed by the City Staff, but the City will have to hire an auditor with Mr. DeSpain stating that was correct and added the auditing firm will also have to be certified by the Department of Revenue.

Councilmember Moncada moved to approve the Intergovernmental Agreement with the Arizona Department of Revenue. Seconded by Vice Mayor McGoffin. Motion passed 7-0.

5. **Discussion and possible action regarding Resolution 20-2015 of the Mayor and Council of the City of Benson, Arizona, approving a Final Budget for Fiscal Year 2015-2016**

Finance Director Dustin DeSpain stated the proposed final budget is the same as the Tentative budget the Council approved, adding the adoption of the Final budget is next. Mayor King stated the budget process was a long process this year and it's nice to have it done to start the new fiscal year. Vice Mayor McGoffin moved to approve Resolution 20-2015. Seconded by Mayor King. Councilmember Konrad stated he had one comment, adding the budget contains about \$500,000 in construction sales tax revenue and stated what the Council does with the CFD (Community Facilities District) may impact that. Councilmember Konrad then stated it was something the Council needed to keep in mind as they approve the budget, adding some major adjustments will have to be made if the City doesn't move in the right direction. Councilmember Moncada stated he didn't think major adjustments would need to be made, adding anticipated construction sales tax is used for capital improvement projects and if no construction sales tax revenue came in, the capital projects just wouldn't be done. Councilmember Konrad agreed, stating that was his point. Councilmember Cook then stated he asked at the worksession held prior to this Council meeting and was told that CFDs were political entities and that they would not pay taxes, he then asked how the City would collect taxes from an entity that was exempt from taxes. City Attorney Paul Loucks stated a CFD would be exempt from any property taxes for property it owns, but for any other purposes, adding a CFD would be responsible for paying other taxes, just like the City is. Mayor King thanked Staff and the Council for all their work and time spent on the budget. Motion then passed 7-0.

6. **Review of City Finances with emphasis on April and May financial results and the City's financial position on May 31, 2015**

Finance Director Dustin DeSpain reviewed the May, 2015 financial results, beginning with citywide finances. Mr. DeSpain stated May was a three-payroll month and with that, there were a lot of payroll related expenses, adding May is also a month where revenue is typically lower. Mr. DeSpain stated the City's unrestricted cash was at \$1.4 million, which was good compared to last year and reflects the great job Staff and Council is doing on recovering reserves, then stated bond proceeds are at \$1.07 million. Mr. DeSpain then stated revenues for the month of May were not enough to cover the expenditures for May by about \$258,000; however, the year-to-date revenues exceeded the year-to-date expenditures by \$279,000, adding last May the City's expenditures exceeded revenues by \$503,000. Mr. DeSpain then stated this is a significant turnaround with an increase from last year of over \$700,000. Mr. DeSpain then stated citywide monthly revenues for the month of May were \$786,000 and year-to-date were \$8.6 million which is \$305,000 less compared to this time last year. Mr. DeSpain then stated May's personnel costs were \$526,000 citywide, which is a decrease of \$54,000 from last May and a year-to-date decrease of \$524,000. Mr. DeSpain stated other expenditures were \$269,000 for May, a decrease of \$57,000 from last May and a decrease of \$359,000 year-to-date.

Mr. DeSpain then addressed the General Fund stating revenues for May were \$436,000 and \$4.3 million year-to-date, which is a \$23,000 decrease from last year at this time. Mr. DeSpain stated May's General Fund personnel expenses were \$354,000, a decrease of \$22,000 from May last year and a year-to-date decrease of \$279,000, adding other expenses in the General Fund were \$97,000, a decrease of \$25,000 from last May and a year-to-date decrease of \$244,000. Mr. DeSpain stated General Fund expenditures exceeded revenues by \$16,000 for the month of May, but he expected this, adding May was a three-payroll month and May usually has lower revenues; however, General Fund revenues for the month of May were \$203,000, which is an increase of \$506,000 over last year at this time, stating this is a huge change in the right direction.

Mr. DeSpain then addressed the Enterprise Funds stating the Gas monthly revenue for the month of May was \$50,000 and year-to-date revenue was \$763,000, adding the Gas fund balance is \$142,000. Mr. DeSpain stated the monthly Water revenues for May were \$71,000 and year-to-date were \$648,000, with the fund balance being \$150,000. Mr. DeSpain then stated Wastewater revenues for May were \$57,000, and \$663,000 year-to-date,

with a fund balance of \$246,000. Mr. DeSpain then stated Sanitation revenues for May were \$51,000 and \$576,000 year-to-date with the fund balance being \$74,000. Mr. DeSpain then reviewed the Golf Course finances stating Golf operations were down \$19,000 for May and down \$19,000 year-to-date, with the Golf Course Food & Beverage down \$7,000 for the month of May and down \$34,000 year-to-date. Mayor King asked how this compared to last year with Mr. DeSpain stating the loss is half of what it was last year. Mr. DeSpain then stated the Golf Course is improving, but the months of May, June, July and August are tough months, then added May was particularly hard due to having three payroll periods.

Mr. DeSpain then reviewed Sales Tax stating the Council can see the City starting to recover; however, bed tax has definitely dropped and construction sales tax is not moving much, adding this is partially due to new laws and changes regarding remodeling. Mr. DeSpain stated taxes are no longer collected on remodeling jobs, but are collected where the products for the projects are bought, so other places will get this sales tax. Mr. DeSpain then stated total City Sales Tax collections are up a bit and are around \$250,000, which is a little less than they were last year. Mr. DeSpain then stated the State Sales Tax collections are also up, adding more purchases and higher revenues can be seen on this tax chart.

Councilmember Konrad stated he had one comment, adding the \$524,000 saved in payroll over the past year was partially due to employee furloughs, adding the finish line for those furloughs is in sight and while most of the employees had left the Council meeting already, he personally wanted to thank those that hung in there and kept the City running in the face of those furloughs. Councilmember Konrad stated those employees are to be commended for that and he was glad to see the furloughs ending.

City Manager William Stephens then addressed the Council stating the Community Watershed Alliance would not be meeting in June or July.

DEPARTMENT REPORTS: No comments from Council.

ADJOURNMENT:

Vice Mayor McGoffin moved to adjourn at 7:43 p.m. Seconded by Councilmember Moncada. Motion passed 7-0.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk