

**THE REGULAR MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD JUNE 27, 2011 AT 7:00 P.M.  
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**CALL TO ORDER:**

Mayor Fenn called the meeting to order at 7:00 p.m. with the pledge of allegiance. Mayor Fenn then introduced Bishop Miller of the Church of Jesus Christ of Latter Day Saints who gave the invocation.

**ROLL CALL:**

Present were: Mayor Mark M. Fenn, Vice Mayor John Lodzinski, Councilmembers David Lambert, Nick Maldonado, Lori McGoffin and Al Sacco. Excused was: Councilmember Jo Deen Boncquet.

Also present were: Newly elected Mayor Toney D. King, Sr. and newly elected Councilmembers Ron Brooks, Chris Moncada (and Al Sacco).

**EMPLOYEE RECOGNITION:** Mayor Fenn recognized Gilda Gomez for 10 years of service with the City.

**PROCLAMATION:** None.

**PUBLIC HEARING:** None.

**CALL TO THE PUBLIC:**

Vicki Vivian addressed the Council reading a statement, entitled "My Town." The statement is incorporated into the minutes.

Building Official Luis Garcia addressed the Council regarding fireworks. Mr. Garcia stated due to the extreme dry conditions and the recent wildland fires, the City has cancelled the 4th of July fireworks display and has temporarily banned the use of consumer fireworks for the 4th of July holiday. Mr. Garcia then stated while the City cannot prohibit the sale of consumer fireworks, we hope citizens follow the temporary ban to stop any potential fire hazards from happening. Mr. Garcia then addressed the Council regarding the recent proclamation declaring August "Drowning Impact Awareness Month," stating the statewide effort focuses on purple ribbons to remember those touched by child drownings and to remind us of the steps we can take to prevent them. Mr. Garcia then stated the purple ribbons will be passed out to Council and Staff and will be available at City Hall for those who would like one.

**CITY MANAGER REPORT:**

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

June 28, 2011	– Planning & Zoning Public Hearing – Medical Marijuana, 6:00 p.m., City Hall
June 29, 2011	– Citizen Review Session – Medical Marijuana, 7:00 p.m., City Hall
July 5, 2011	– Planning & Zoning Meeting, 7:00 p.m., City Hall
July 11, 2011	– City Council Meeting, 7:00 p.m., City Hall
July 12, 2011	– Library Advisory Board, 4:00 p.m., City Library
July 16, 2011	– Historic Preservation Commission, 9:00 a.m., City Hall
July 18, 2011	– Economic Development Subcommittee, 5:15 p.m., City Hall
July 19, 2011	– Planning & Zoning Public Hearing – Medical Marijuana, 6:00 p.m., City Hall
July 25, 2011	– City Council Meeting, 7:00 p.m., City Hall
July 26, 2011	– Community Watershed Alliance, 6:30 p.m., City Hall

- July 4, 2011 – 4th of July Celebration, Lions Park, Parade – 9:00 a.m., Firefighters’ Water Fight – 10:00 a.m., Activities throughout the Day/Evening. The schedule of events is available at the Tourism website and the City’s website.  
HOLIDAY – City Offices Closed
- June/July – City Pool – Pool is open Monday thru Saturday from 11:00 a.m. – 5:00 p.m., Sunday from 1:00 p.m. – 5:00 p.m. Swim lessons and the pool activity schedule are available at [www.cityofbenson.com](http://www.cityofbenson.com)
- Summer Recreation Programs – The Recreation Department offers many activities. Additional information on activities and programs is available at [www.cityofbenson.com](http://www.cityofbenson.com).

Mr. Nichols then addressed the Council regarding the assistance the City has provided with the recent fires in Arizona. Mr. Nichols stated on June 19, the Police Department provided 2 officers and a supervisor and on June 20, the Police Department provided 2 officers to assist with the Monument Fire. Mr. Nichols then stated the Fire Department also assisted on June 19 by sending 2 apparatus to help with the Monument Fire under the Countywide mutual aid agreement and had also assisted by sending 2 vehicles to cover the City of Sierra Vista while their units were out of the area helping with the fire. Mr. Nichols then stated there had been talk of the City being reimbursed for the costs of assisting and he would keep the Council informed.

**NEW BUSINESS:**

**1. Consent Agenda**

- 1a. Minutes of the May 18, 2011 Worksession
- 1b. Minutes of the June 6, 2011 Special Meeting
- 1c. Minutes of the June 13, 2011 Regular Meeting
- 1d. Basic Service Contract with South Eastern Arizona Governments Organization (SEAGO)
- 1e. Resolution 40-2011 of the Mayor and Council of the City of Benson, Arizona, authorizing the Chief of Police to apply for a Tohono O’odham Grant to fund equipment and overtime
- 1f. Resolution 41-2011 of the Mayor and Council of the City of Benson, Arizona, authorizing the Fire Chief to apply for a Tohono O’odham Grant to purchase equipment
- 1g. Invoices processed for the period from June 7, 2011 through June 20, 2011

Councilmember McGoffin moved to approve the Consent Agenda as amended. (Minutes of June 13, 2011 amended.) Seconded by Vice Mayor Lodzinski. Motion passed 6-0.

**2. Presentation of Certificates of Election for the City of Benson Primary and General Elections held in and for the City of Benson on March 8, 2011 and May 17, 2011 and Swearing In and Seating of the newly elected Mayor and Councilmembers**

Mayor Fenn expressed his appreciation to everyone who has supported him and his fellow Councilmembers. Mr. Fenn then stated over the past years his association with City staff and administration has been one of professionalism and he appreciated the good work they have done. Mayor Fenn then stated he appreciated the opportunity to serve with his fellow Councilmembers and wished those who remained in place well, and those who will be sworn in, the best, adding he wished for the good of Benson. Mayor Fenn then stated he was especially grateful to have Vice Mayor John Lodzinski by his side and stated we wished him the best with his health challenges, adding it was a miracle he was at the meeting. Mayor Fenn then told Vice Mayor Lodzinski it was great to have him present. Vice Mayor Lodzinski received applause. Mayor Fenn then turned the item over to City Clerk Vicki Vivian. Ms. Vivian presented Certificates of Election to and swore in newly elected Councilmembers Ron Brooks, Chris Moncada, Al Sacco and newly elected Mayor Toney D. King, Sr., who were then seated. Mayor King then recognized outgoing Mayor Fenn and outgoing Vice Mayor Lodzinski with plaques. Mayor King stated he was proud to serve with them both and knew they were committed to moving Benson forward in a positive direction. Mayor King then thanked them for their dedication and service to the City,

noting Mayor Fenn had served on the Council from 2003-2011 and Vice Mayor Lodzinski had served on the Council from 2003-2011. Mayor King then invited Father Michael Bucciarelli from Our Lady of Lourdes Church to give a blessing.

3. **Selection of Vice Mayor for the City of Benson City Council**

Councilmember Lambert stated the position of Vice Mayor is of supreme importance, adding the person appointed Vice Mayor will preside in the Mayor's absence and should have the experience to fulfill all the duties of the Mayor of the City of Benson. Councilmember Lambert then stated after long consideration, he would like to move to appoint Councilmember Lori McGoffin to the position of Vice Mayor. Seconded by Councilmember Maldonado. Councilmember Brooks asked if the Vice Mayor was the longest standing Councilmember, with Councilmember Lambert stating anyone who has been duly elected can be appointed to the position. Motion then passed 7-0.

4. **Ordinance 556 of the Mayor and Council of the City of Benson, Arizona, amending the City Code, Chapter 2, "Mayor and Council," to clarify that Write-In Candidates in the City Primary Election may be nominated for the General Election**

City Clerk Vicki Vivian addressed Council stating the question of placing a write-in candidate's name on the general election ballot as a candidate for the remaining open city council seat had recently been reviewed since the language in the City Code was not clear in the matter. Ms. Vivian then stated upon further research with the Arizona Elections Director and fellow city attorneys, it was found the consensus was the ordinance was not to be read too literally and the provision did allow for a write-in candidate's name to be on the general election ballot if he or she is within the top two vote-getters in the primary election. Ms. Vivian then stated her office was never in disagreement from a policy perspective, but the ordinance language was not clear and at the time of the review and decision, she had informed Council she would be asking them to consider an amendment to the ordinance language to clarify that a write-in candidate may be nominated in the primary election if he or she is within the top group of candidates for the remaining offices. Councilmember Brooks asked if this was a draft for the Secretary of State's office to be able to examine with City Attorney Mike Masee stating he could send it to their office if Council directed him to do so. Councilmember Brooks then stated someone had mentioned the Secretary of State's office should be able to examine the document and make sure it's correct. Mr. Masee then stated the ordinance is a City ordinance, which is subject to the legislative body of the City, which is the City Council, adding the intent of Ordinance 556 is not a substantive change and is not to change the result of the consensus that was reached by other City attorneys, but to make the language clear and unambiguous. Councilmember Sacco asked if the Ordinance was optional with Mr. Masee stating the proposed Ordinance was at Council's discretion, adding since he has been here, he has pointed out several times ordinances have been ambiguous and has brought proposed changes to Council, noting we are always challenged to make the point as clear as possible. Mr. Masee then stated as Ms. Vivian mentioned, from a policy perspective, he never objected that a write-in candidate could be placed on the general election ballot; the problem was interpreting the ordinance. Mr. Masee then stated he has always seen his position to interpret an ordinance or law based on the language not on the result someone desires to reach and the current language is ambiguous because it says general election candidates are limited to names on the primary election ballot. Councilmember Brooks then asked if the ordinance was something that needed to be sent to the State Elections Department and stated he thought the League of Arizona Cities & Towns may also be interested in receiving it also. Mr. Masee stated he would send it to both. Mayor King confirmed the ordinance amended the language to clarify the process, with Mr. Masee stating if the Council's intent is to allow a write-in candidate to go in forward from the primary election as a nominated candidate to the general election, the ordinance makes the language to do so very clear. Vice Mayor McGoffin moved to approve Ordinance 556. Seconded by Councilmember Maldonado. Motion passed 7-0.

5. **Resolution 42-2011 of the Mayor and Council of the City of Benson, Arizona, approving a Final Budget for Fiscal Year 2011-2012**

Finance Director Jim Cox stated the City Council had adopted the Tentative Budget on June 6, 2011 and all

required public notices were published and the required public hearing regarding the budget was held at a special Council meeting on June 23, 2011. Mr. Cox then stated at this time, the Council is legally able to consider the adoption of the proposed Final Budget for Fiscal Year 2011-2012. Mr. Cox then stated Resolution 42-2011 adopts the Tentative Budget as the Final Budget, adding the budget total is \$19,541,759.00. Mayor King then opened the item for discussion. Councilmember Moncada and Vice Mayor McGoffin recused themselves on the advice of the City Attorney. Councilmember Lambert moved to approve Resolution 42-2011. Seconded by Councilmember Maldonado. Motion passed 5-0, with Councilmember Moncada and Vice Mayor McGoffin abstaining.

6. **Resolution 43-2011 of the Mayor and Council of the City of Benson, Arizona, supporting local allocation of Highway User Revenue Funds (HURF) and advocating that the Arizona Legislature develop a plan to restore HURF Funding to Arizona Cities and Towns to the Fiscal Year 2008 levels over the next 3 to 5 year period**

Councilmember Brooks stated the City needed the HURF funding, adding many other cities and towns are passing such a resolution. Councilmember Moncada then asked if the resolution states the legislature should give cities the HURF funding they should have. City Manager Glenn Nichols then addressed the Council stating the legislature started sweeping this funding back in 2007 and since that time our street maintenance funding has dropped 23.3% and State shared revenues dropped 20%, which is a large hit for a small community, adding even for the larger communities to be able to do street maintenance and such. Mr. Nichols then stated the resolution is supportive of the cities that have already approved and passed this type of resolution and the other cities that have it on their agenda to approve. Mr. Nichols then stated the resolutions will be brought forward by the League of Arizona Cities & Towns to the legislators to try to get the swept funds back over a 3 to 5 year period. Mr. Nichols then stated we're hoping by joining all the other communities that have done this, the legislators will see that they are really affecting cities, towns and counties by sweeping this money, adding it also affects tourism and economic development if people come to a community and the streets are not maintained. Vice Mayor McGoffin moved to approve Resolution 43-2011. Seconded by Councilmember Lambert. Motion passed 7-0.

7. **Backup Generator Police/Fire Building Purchase (CIP PW 11-3) – Authorization of expenditure to purchase a Caterpillar 100 kW standby generator set and accessories for the Police/Fire Building under the National Joint Powers Alliance (NJPA) Contract #092409 for \$34,684.40**

Public Works Director Brad Hamilton addressed Council stating this is to replace the current generator at the Police/Fire building, which is a 10 kW, adding over the years the load has grown with computers and radios and we now need a 100 kW generator. Mr. Hamilton then stated amazingly, the older generator, a model 1942 year generator, still works, but is just too small. Mr. Hamilton then stated the new generator will power the entire building in case of an emergency outage, keeping the 911 system up and everything in both the police department the fire department working. Councilmember Sacco asked if bond funds would be used for this purchase with Mr. Hamilton confirming they would. Mr. Hamilton then stated the Chief of Police has been searching for grants to purchase the generator, but none have materialized. Mr. Hamilton then stated with the monsoon season approaching, we've rented a generator that will work for now, but it makes economic sense to get a generator in place and not pay rental fees for a longer period. Councilmember Sacco then asked if the price was standard or if he had solicited bids, with Mr. Hamilton stating the price was obtained utilizing the NJPA Contract which placed bids for the best prices, adding municipalities, counties and non-profit organizations can utilize the contract, saving the City money. Councilmember Brooks and Councilmember Sacco asked about the set up and installation with Mr. Hamilton stating the purchase includes the generator, the switch and the control accessories as well as a sound insulated enclosure, but the City will still need a pad and the electrical work to wire in the switch to the building and those accessories and he's getting prices on those items. Mr. Hamilton then stated we would bring in an electrician to do the wiring, City crews will be building some of the steel work and conduit and items like that and we'll have someone come in and install the pad, adding we're already looking at the design for it to meet the weight and vibration and things like that. Mr. Hamilton then stated the long lead items are the generator and the switch, adding one thing he has found since the downturn in the economy, is no one builds items and leaves them on the shelf; you order an item and then it is built, so

that takes longer to get and he would like to get them ordered. Councilmember Moncada asked if the new generator would be in place in time for the upcoming monsoons with Mr. Hamilton stating it will be installed as soon as possible, but the rental standby generator is there now. Councilmember Lambert asked about the current generator with Mr. Hamilton stating in 1988 it was recovered out of the City yard and was rebuilt, adding it is still up and running, but is not big enough. Councilmember Lambert asked if it could be used elsewhere with Mr. Hamilton stating we are currently looking at installing it at the City yard to power diesel pumps and lights in the event of an emergency. Councilmember Lambert then moved to approve the purchase a Caterpillar 100 kW standby generator set and accessories for the Police/Fire Building under the National Joint Powers Alliance (NJPA) Contract #092409 for \$34,684.40. Seconded by Councilmember Sacco. Motion passed 7-0.

**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 Lambert moved to enter into Executive Session with the Mayor and Council, the City Manager, the City Attorney, outside counsel secured by the Arizona Municipal Risk Retention Risk Pool, Mr. Jeff Murray by telephone and the City Clerk at 7:42 p.m. Seconded by Vice Mayor McGoffin. Motion passed 7-0.

Council reconvened at 8:08 p.m.

**DEPARTMENT REPORTS:** None

**ADJOURNMENT:**

Councilmember Lambert moved to adjourn at 8:09 p.m. Seconded by Vice Mayor McGoffin. Motion passed 7-0.

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Toney D. King, Sr., Mayor

ATTEST:

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Vicki L. Vivian, CMC, City Clerk