

# CITY OF BENSON CITY COUNCIL FEBRUARY 5, 2018 – 7:00 P.M. SPECIAL MEETING

A SPECIAL MEETING OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
WILL BE HELD ON FEBRUARY 5, 2018 AT 7:00 P.M.,  
AT BENSON CITY HALL,  
120 W. 6TH STREET, BENSON, ARIZONA

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Vicki L. Vivian, CMC, City Clerk

## AGENDA

The Council may discuss, direct, consider and take possible action as indicated below pertaining to the following:

**CALL TO ORDER:** The Call to Order will consist of the Mayor calling the Council to order. The Mayor or his designee shall then lead those present in the Pledge of Allegiance before introducing the invocation speaker, who will offer the invocation.

**ROLL CALL:** The City Clerk shall call the roll of the members, and the names of those present shall be entered in the minutes.

### **NEW BUSINESS:**

1. Discussion and possible action on the Consent Agenda: \*\*\*
  - 1a. Minutes of the January 22, 2018 Regular Meeting \*
2. Discussion and possible action to appoint an individual to fill the Council seat vacated by Councilmember McGoffin – **Vicki Vivian, Interim City Manager/City Clerk** \*

### **ADJOURNMENT**

POSTED this 1st day of February, 2018

Material related to the City Council meeting is available for public review the day before and the day of the meeting, during office hours, at the City Clerk's Office located at 120 W. 6th Street, Benson, Arizona, 520-586-2245 x 2011.

All facilities are handicapped accessible. If you have a special accessibility need, please contact Vicki L. Vivian, City Clerk, at (520) 586-2245 or TDD: (520) 586-3624, no later than eight (8) hours before the scheduled meeting time.

Any invocation that may be offered before the start of regular Council business shall be the voluntary offering of a private citizen, for the benefit of the Council and the citizens present. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker.

Executive Sessions – Upon a vote of the majority of the City Council, the council may enter into Executive Sessions pursuant to Arizona Revised Statutes §38-431.03 (A)(3) to obtain legal advice on matters listed on the Agenda.

\* Denotes an Exhibit in addition to the Council Communication

\*\* Call to the Public

Arizona Revised Statutes §38-431.01(H) provides that “A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.” As such, a Call to the Public, if on the agenda, is provided as a courtesy.

In order to speak during the Call to the Public, please complete the Call to the Public form requesting to do so.

\*\*\* Consent Agenda

The Consent Agenda will be the first item under New Business and shall list separately distinct items requiring action by the City Council that are generally routine items not requiring Council discussion. A single motion will approve all items on the Consent Agenda, including any resolutions or ordinances, or claims/invoices that are of a routine nature. A Councilmember may remove any issue from the Consent Agenda, and that issue will be discussed and voted upon separately, immediately following the Consent Agenda under its proper regular category of New Business.

**NOTICE TO PARENTS:** Parents and legal guardians have the right (with certain exceptions) to consent before the City of Benson makes a video or voice recording of a minor child. A.R.S. §1-602(A)(9). Regular and Special Meetings of the Mayor and Council for the City of Benson are recorded, and that recording is usually posted on the City’s website. If you permit your child to participate in a Regular or Special Meeting of the Mayor and Council for the City of Benson, a recording will be made. If your child is seated in the audience your child may be recorded, but you may request that your child be seated in a designated area to avoid recording. Please submit your request to the City Clerk.

# City of Benson City Council Communication



Special Meeting

February 5, 2018

To: Mayor and Council

Consent Agenda Item # 1a

From: Vicki Vivian, CMC, Interim City Manager/City Clerk

Subject:

Minutes of the January 22, 2018 Regular Meeting

Discussion:

Attached are the minutes of the January 22, 2018 Regular Meeting.

Staff Recommendation:

Council pleasure

**THE SPECIAL MEETING  
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA  
HELD JANUARY 22, 2018 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 Joe Konrad, Councilmembers Larry Dempster, Levi Garner and David Lambert. Absent was: Councilmember Pat Boyle.

Mayor King then stated Councilmember Boyle was not in attendance due to an illness.

**EMPLOYEE RECOGNITION:** None

**PROCLAMATION:** Mayor King invited Ed Meza from the American Legion to come forward; then read a proclamation declaring February 3, 2018 and hence forth every year on the first Saturday of February to be "The Four Chaplains Memorial Ceremony Day." Mayor King then presented the proclamation to Mr. Meza, who invited the public to attend the ceremony on February 3.

**PUBLIC HEARING:** None

**CALL TO THE PUBLIC:**

Stephen Insalaco, Pinto Place, J6, spoke about his displeasure regarding Mr. Stephens' resignation. Mr. Insalaco stated Mr. Stephens inherited his position while the City was encountering many difficulties, and at times Mr. Stephens had to make tough and unpopular choices, but he has done an excellent job serving this community as Benson's City Manager. Mr. Insalaco then stated Mr. Stephens has moved the City's financial status deeper into the black, accomplished great strides in making the Villages of Vigneto a reality, and has been instrumental in many of the advances in airport operations. Mr. Insalaco then stated Mr. Stephens has a management style that is both honest and fair and he has earned the respect of individuals both inside and outside of municipal government. Mr. Insalaco then spoke about the search for a new City Manager and that he thinks it is important the Council revisit the values that make a great City Manager such as the capability to make sound decisions, who has excellent communications skills, has a good rapport with both City employees and residents, and can manage people as well as the City's physical resources. Mr. Insalaco then stated above all, the new City Manager should be willing to work with Staff and Council, be a true municipal leader, and not a yes-man. Mr. Insalaco then stated he believes the City is losing an extremely qualified City Manager, who will be very difficult to replace, and he feels the City should be making a stout counter offer for Mr. Stephen's consideration. Mr. Insalaco then spoke about the process of recruiting candidates for the City Manager position and that the Council should do their own research on candidates, before the media makes news of poor choices, adding the Council needs to consider candidate financial and criminal histories, in conjunction with examining advertised credentials. Mr. Insalaco then stated the presence of a four-year college degree, in an applicable discipline, also represents an essential criteria for this position and every fact should be completely vetted. Mr. Insalaco closed by stating he was very sorry to see Mr. Stephens and his family leaving our community and he wished Mr. Stephens and his family the very best.

Tricia Gerrodette, Eagle Ridge Dr. Sierra Vista, stated she would like to echo many of the statements Mr. Insalaco made about Mr. Stephens, adding she was very grateful and parties on all sides should be grateful he stuck through the Villages of Vigneto process, which would have been a heavy burden for a brand-new person to take on. Ms. Gerrodette stated she was glad he stuck through that process and saw it to a conclusion, if not the conclusion. Ms. Gerrodette then stated she would love to have a true report from the City Manager and/or the

Mayor about what is going on in the City, noting she didn't know there had been a lawsuit about a piece of property and when the Council settled it last week, it was the first she heard of it. Ms. Gerrodette then stated she thinks the citizens are entitled to know what is going on a weekly or monthly basis, such as roads that are planned for repair or events that are planned, adding she would look forward to a true report from the City Manager.

Barbara Nunn, La Cuesta Drive, Benson stated it has been nearly 10 months since the failed coup attempt on Mr. Stephens, but now, the joke is on Benson, adding Benson lost a man of integrity, honor and honesty, who will be impossible to replace. Ms. Nunn then asked who could blame Mr. Stephens for looking for a job with all the loyalty he was shown here, which brings her to her next question of what is next. Ms. Nunn then stated rumors are flying all over town that Dustin DeSpain is all prepped and ready to be the next City Manager, then stated this is the same person who left on extremely short notice and left the budget in absolute shambles and to the point that the City had to hire an outside consultant to repair the damage. Ms. Nunn then stated she is most confused about the agenda item to appoint an Interim City Manager and asked why that would be necessary when Mr. Stephens gave his 60-day notice. Ms. Nunn then stated the Council would have time to shop for a replacement and asked why there was a rush to move forward when Mr. Stephens has proven to do an excellent job, as Council stated at the last meeting. Ms. Nunn then asked if some of the Council got their feelings hurt because he gave his notice, asking who could blame him. Ms. Nunn then stated the Council needed to remember that this is an election year and this issue could come back to bite them. Ms. Nunn then thanked Mr. Stephens for his service.

David Thompson, Le Cuesta Drive, Benson, stated some of the Council may not know that he has a background in the maritime industry, adding he drove boats around the ocean for a while and things like that. Mr. Thompson then stated he would liken that to 10 years ago, when he came here and saw this boat stuck in the mud that was sinking and rusting and was in pretty bad shape. Mr. Thompson then stated about 4 years ago, some guy with vision comes along and says that's the S.S. Benson and we can save it. Mr. Thompson then stated so the guy puts the boat in drydock, gets it seaworthy and heads across the open water toward the continent of the Villages at Vigneto. Mr. Thompson then stated now, it's out in the middle of the ocean, things are pretty good, there are fair winds and it's sunny, but there are 6 guys on the boat who like to play cards and the captain says there is no card playing while they are underway because they have to pay attention to their goals. Mr. Thompson stated the guys get upset, there is a mutiny and they throw the captain overboard, adding they drift around the currents for a day or two and suddenly they look at each other and say is there anyone left on the boat who knows how to navigate? Mr. Thompson then thanked Mr. Stephens for his service.

Mayor King asked about what lawsuit Ms. Gerrodette was referring to with City Attorney Gary Cohen stating the recently settled property suit was with GMAC. Mayor King then stated he hasn't heard anything about Mr. DeSpain and in this type of business, rumors fly around a lot. Ms. Gerrodette stated many of the rumors turn out to be true with Mayor King stating they are not all true.

## **CITY MANAGER REPORT:**

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

- Tuesday, January 23, 2018 – Community Watershed Alliance, 6:30 p.m., City Hall
- Tuesday, February 6, 2018 – Planning & Zoning Meeting, 7:00 p.m., City Hall
- Monday, February 12, 2018 – Council Meeting, 7:00 p.m., City Hall
  
- Thursday January 25, 2018 – Library Guest Speaker Cal Kelly, 10:30 a.m., City Library  
Yuma County & Cochise County Master Gardener Succulents;  
Dish Gardens and Container Gardens
  
- Thursday February 1, 2018 – Library Guest Speaker Jeff Bickel, 10:30 a.m., City Library  
Senior Geologist Excelsior Mining Corp – Minerals of Arizona  
Basic concepts in mineralogy and mineral identification, various  
mineral localities in Arizona, and the importance of minerals to society.  
Specific emphasis will be placed on copper and other metal ore minerals that  
are mined throughout Arizona and the southwestern US

- Thursday February 8, 2018 – Library Guest Speaker Dennis Mitchell, 10:30 a.m., City Library  
Former Airline Executive and Pilot  
“The Airline Industry.... An Insiders Perspective”  
An Overview of the airline industry. This will include flight operations, crew and aircraft scheduling, brief history of the business, ticket, pricing, tips on travel, etc.
- Thursday February 15, 2018 – Library Guest Speaker Dr. Eric Kaldahl, 10:30 a.m., City Library  
Amerind Foundation – Amerind and the Borderlands  
The current national border separating the US and Mexico is a very recent dividing line when you consider our region’s deep history. A discussion will be held on the similarities and differences among our region’s ancient cultures, including a discussing of the history of Amerind’s archaeological research along the way. His talk will be illustrated with photographs and objects from the Amerind Museum Collection.
- Monday, February 19, 2018 – Presidents’ Day – City Offices Closed

Mr. Stephens then stated for a full list of events, activities, locations and times, the public could view the City’s website at [www.cityofbenison.com](http://www.cityofbenison.com) Mr. Stephens then stated he has one last item to report for Ms. Gerrodette; then stated part of the sewer line on Ocotillo is being replaced, adding the work is taking place near the almost 20,000 sq. ft. Chiricahua Health facility. Mr. Stephens noted the work is being done in conjunction with that construction, which presented the opportunity to go in and replace part of the sewer line.

**NEW BUSINESS:**

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

- 1a. Minutes of the December 5, 2017 Special Meeting
- 1b. Minutes of the December 11, 2017 Regular Meeting
- 1c. Minutes of the January 16, 2018 Special Meeting
- 1d. Resignation of Phyllis Little from the Benson Historic Preservation Commission
- 1e. Resignation of Barbara Thompson from the Benson Planning & Zoning Commission
- 1f. Invoices processed for the period from December 29, 2017 through January 10, 2018

Vice Mayor Konrad moved to approve the Consent Agenda. Seconded by Councilmember Garner. Motion passed 5-0.

**2. Discussion and possible action regarding Resolution 2-2018 of the Mayor and Council of the City of Benson, Arizona, directing the City’s Banking partners to recognize the signatures of said officers on electronic fund transfers, checks for deposit and/or withdrawal; and declaring an emergency with respect to this resolution**

City Manager Bill Stephens stated the proposed resolution authorizes the Mayor, Council, Finance Director and City Clerk to sign bank transfers and checks for deposit and/or withdrawals. Mr. Stephens then stated Staff is asking to have all Councilmembers named in the resolution, which would give Staff a total of 9 authorized personnel to sign checks and increase the ability to have checks executed when some of the authorized persons are not available. Mr. Stephens then noted as a standard operating procedure, 2 Councilmembers would not be allowed to sign checks, which provides one of the many checks and balances the Finance Department maintains. Mr. Stephens stated Staff is recommending approval of the resolution, adding the new Finance Director, Deb Trate, was present to answer any questions Council may have.

Mayor King stated there are times it’s hard to get signatures on checks when people are out of the office and Councilmembers are working or are out of town. Finance Director Deb Trate agreed, stating this change would make the process easier while still providing checks and balances.

Councilmember Lambert noted the resolution allows for only 1 signature from Staff and 1 signature from Council with City Attorney Gary Cohen confirming this. Mayor King stated he likes having checks and balances in place.

Vice Mayor Konrad asked if there had been a problem with the lack of availability of Staff or Council or of both with Ms. Trate stating it had been both in the past. Vice Mayor Konrad asked if another Staff member should be considered with Ms. Trate stating with the proposed change allowing all of Council to sign, there shouldn't be any further problems. Mr. Cohen stated when and if a full-time City Manager begins his employment, the resolution could be brought back to Council for a modification to add the City Manager. Vice Mayor Konrad asked that it be brought back at that time.

Councilmember Lambert stated this change would also remove signatures from the past, then moved to approve Resolution 2-2018. Seconded by Councilmember Garner. Motion passed 5-0.

3. **Discussion and possible regarding Resolution 3-2018 of the Mayor and Council of the City of Benson, Arizona, authorizing the City Manager and/or the Fire Chief to apply for an Assistance to Firefighters Grant for communication equipment (Portable Radios)**

Fire Chief Keith Spangler stated the Cochise County Fire Association has agreed to hire a grant writer to do a regional grant for communications equipment, adding the application will be for portable radios. Chief Spangler then stated Fry Fire is going to host the grant, meaning the grant writer will write it and Fry Fire will do all the reporting and such, adding there will be 12 other agencies participating. Chief Spangler then stated the cost for 15 portables total cost is \$64,214.00 and the City's match is 10%, adding normally the City applies solely and the grant application requires a 5% match, but since there are so many agencies participating the match will be 10% which will be \$6,421.00. Mayor King asked about the grant being in the budget with Chief Spangler stating he budgets for an AFG (Assistance to Firefighters Grant) grant every year.

Councilmember Garner stated he knows Sunsites Fire is participating as well, adding this is a great grant and the equipment is needed, noting the radios are over 10 years old, and parts are no longer made for them. Councilmember Garner then stated this grant will give the City a jumpstart on replacing the radios and will save money for now, but noted there will be a need for more in the future. Chief Spangler agreed, stating this is only addressing the portable radios and is not addressing the mobiles that go into the fire trucks themselves. Chief Spangler then stated the new portable radios allow interoperability between fire agencies and law enforcement agencies giving the captains of the engines that go on calls the ability to have some communication with law enforcement. City Attorney Gary Cohen stated the AFG grant is a grant is a federal grant through FEMA. Councilmember Garner moved to approve Resolution 3-2018. Seconded by Councilmember Lambert. Motion passed 5-0.

**EXECUTIVE SESSION:** Pursuant to A.R.S. section 38-431.03(A)(3) and (4), about a possible voluntary separation agreement with City Manager William D. Stephens

Mayor King asked if the Council felt an executive session was needed, adding all of Council had a chance to read the agreement. No motion was made and no executive session was held.

4. **Discussion and possible action on a proposed voluntary separation agreement with City Manager William D. Stephens**

City Attorney Gary Cohen stated after City Manager Stephens tendered his resignation, both he and the City wanted to make sure that they resolved any and all potential or existing issues between them, so they could both move forward amicably and with peace of mind. Mr. Cohen stated, in accordance, he negotiated, as authorized, a Voluntary Terms of Separation Agreement with City Manager Stephens, adding that process began Wednesday and concluded on Friday. Mr. Cohen then stated that agreement is presented to the Mayor and Council for consideration and approval, adding the City's Attorneys recommend the agreement be approved as drafted and presented. Mr. Cohen then stated the contract was not to be finalized unless or until the Council went into an executive session, noting there could have been changes made, so if anyone wants copies of the agreement, copies are or soon will be placed in the back of the chambers should anyone want to review it. Mr. Cohen then stated he

thinks Mr. Stephens, if asked, will avow that he's on board with it and is ready, willing and able to sign it if it is agreed upon by Mayor and Council.

Mayor King stated he has spoken to Mr. Stephens a few times this week, and he wanted to tell Mr. Stephens that he truly appreciates him. Mayor King then stated both he and Mr. Stephens had their moments in the past, but that has all been worked out. Mayor King then stated Mr. Stephens came to Benson when the City Council needed him the most, adding Mr. Stephens is a champion and was quite heroic in helping the City get through some of the toughest times it's been through. Mayor King then stated he appreciates Mr. Stephens for what he's done, and he knows Mr. Stephens won't be forgotten. Mayor King then again thanked Mr. Stephens for all he's done and for the conversations he's had with Mr. Stephens lately, adding everything worked out really well.

Councilmember Lambert stated he would like to echo that, adding Mr. Stephens has done a great job in the 4 years he's been here. Councilmember Lambert then stated he had a question for the City Attorney on the contract in Section 10, adding he knew some of the Council didn't have a copy of the contract with them. City Attorney Gary Cohen stated the City Clerk had copies and could distribute them to the Council with some Councilmembers stating they had electronic copies with them. City Clerk Vicki Vivian then distributed copies to those on Council who requested them. Councilmember Lambert then read from the proposed contract in Section 10, which read, "Return of Property. EMPLOYEE shall return all property of EMPLOYER in his possession within two days after the effective date of this agreement. EMPLOYER will maintain EMPLOYEE's email account through March 10, 2018, and in good faith provide EMPLOYEE with access to his office and anything else reasonably necessary for EMPLOYEE to perform his duties under paragraph 2.c of this Agreement..." Councilmember Lambert then stated paragraph 2c talks about the fact that Mr. Stephens will be on comp time until Council ends his tenure, but if the City employee property is all taken away, Mr. Stephens won't have keys to his office and won't have a vehicle to drive to City Hall, adding someone would have to go and pick Mr. Stephens up. Councilmember Lambert then stated if Mr. Stephens doesn't have his Microsoft surface, he won't have access to email. Councilmember Lambert then stated there needed to be some leeway on this, adding Mr. Stephens should keep his phone in case he has to be contacted to come in and sign papers or anything else. Councilmember Lambert then stated those 4 pieces of City property probably need to stay in his possession until March 10. Councilmember Lambert then stated he just wanted to clarify that with the way he was reading the contract, it says Mr. Stephens has to be reasonably able to do his job and be accessible, then asked how the Council would contact Mr. Stephens if he didn't have the City phone.

Mr. Cohen stated it could be done however the Council wants, then stated he and Mr. Stephens discussed this at length and Mr. Cohen's understanding is that Mr. Stephens would be turning in all those items Councilmember Lambert mentioned. Mr. Cohen then stated he understands that Mr. Stephens has another car and a phone he can be contacted on. Mr. Cohen then stated if Mr. Stephens doesn't have keys to the office and there is an issue of Mr. Stephens having access, he would personally drive down and make sure Mr. Stephens was able to get in and get what he needed, adding Staff would be reasonable in giving Mr. Stephens access to whatever he needed at any time he needed it. Mr. Cohen then again stated the Council could change the agreement, but it was his understanding Mr. Stephens would be turning in the items Councilmember Lambert mentioned.

Vice Mayor Konrad asked about the billing cycle of Mr. Stephens' cell phone with Mr. Stephens stating his phone will simply transfer over to whoever the next City Manager is. Vice Mayor Konrad stated he doesn't see a problem with Mr. Stephens keeping his cell phone as the agreement says he needs to have items that are "reasonably necessary" to cooperate with the City, adding Mr. Stephens stated said he would be available if needed. Mr. Stephens stated he serves at the pleasure of Council through March 10, so despite the fact that he may be on comp time status or doing something, he would be local or at least near and be able to respond at some point. Mr. Stephens then stated since he serves at Council pleasure, he was more than happy to turn everything in, keep everything or a combination. Vice Mayor Konrad stated he would be comfortable with Mr. Stephens keeping his cell phone and that he didn't feel the agreement needed to be changed. Mr. Cohen agreed, stating if a motion was made, it could contain language to clarify what Section 10 is intended to mean. Vice Mayor Konrad then moved to approve the separation agreement with the understanding Mr. Stephens maintains possession of his cell phone until March 10. Seconded by Councilmember Garner. Mr. Stephens asked that he be able to keep the Microsoft surface to make it easier to deal with his email. Vice Mayor Konrad amended his motion to include his motion to approve the separation agreement between Mr. Stephens and the City with the understanding that Mr. Stephens would maintain possession of the Microsoft surface and the smart phone until March 10. Amended

motion was seconded by Councilmember Garner. Motion passed 5-0.

**EXECUTIVE SESSION:** Executive session pursuant to A.R.S. section 38-431.03(A)(1), (3) and (4) regarding City Manager Stephens' recent resignation, existing contract, and relevant terms thereof for the remainder of his tenure.

Councilmember Lambert he asked for these last items to be put on the agenda, but Mr. Cohen informed him that the Council could only receive legal advice. Councilmember Lambert then stated the Council doesn't have a need for any legal advice at this point and he doesn't feel an executive session is needed. No motion was made and no executive session was held.

5. **Discussion and possible action on the appointment of an interim City Manager**

City Attorney Gary Cohen stated City Manager Stephen's resignation raises the question of what the City should do to ensure that its affairs are properly administered until a new City Manager is selected and on board. Mr. Cohen stated in this situation, the League of Cities and Towns recommends that "local government officials must avoid acting impulsively and succumbing to the temptation to hurriedly appoint a new permanent manager. Local government officials need an interim period to carefully select the best possible successor who meets their criteria. To ensure a smooth transition and to allow the city/town the time necessary to consider the right skills and qualifications needed, an interim manager can help buy valuable time." Mr. Cohen then stated in accordance, this item was placed on the agenda to allow the Mayor and Council, if they desire, to clarify who will be responsible for directing the City until a new full-time City Manager is appointed, adding the Staff recommendation is Council pleasure.

Councilmember Lambert stated he asked for this to be on the agenda, adding he read the League's executive recruitment guide several times, adding it was emailed out to all Councilmembers. Councilmember Lambert then stated the last time there was a City Manager vacancy, the League performed a service for the City; they advertised, collected applicants' information, sorted out who was qualified for the job and ranked the candidates. Councilmember Lambert then stated due to liability issues, the League has actually stepped away from performing that service, so they created the guide, which talks about 2 different ways going through the process of selecting a City Manager; in house through HR and the City Attorney or an outside recruiting company. Mayor King asked if the Council was on topic with Mr. Cohen stating he would let the Council know if they weren't. Councilmember Lambert continued stating the recruitment guide also talks about the selection and purpose of an interim manager, whether it be for 2, 4 or 6 months, adding the guide says "the approximate total time required including relocation of the new City Manager would be 20-26 months" with Mr. Cohen stating he believed the guide read 26 weeks and Councilmember Lambert stating he was thinking of 6 months. Councilmember Lambert then stated the best thing to do would be to appoint an interim City Manager to be able to do the day-to-day business of the City Manager until that point. Councilmember Lambert then stated the recruitment guide also says that "often the first question elected officials must face when the vacancy occurs is what we should do to ensure that the affairs of the local government are properly administered until the new manager is selected and on board and who should be in charge." Councilmember Lambert then stated the guide says to appoint an Interim City Manager and then the next paragraph says to "ensure the organization understands that the interim Manager has the same authority and responsibilities as a regular Manager, regardless of who is appointed, it should be clear to all local government officials and Staff that the interim Manager is in charge." Councilmember Lambert then stated he just wanted to point that information out, adding he would now open the item for discussion and then he would come back and talk after the discussion.

Mayor King stated the only thing he wanted to make sure of is that whoever is put in as the Interim City Manager is guaranteed to be put back in their former position when the new City Manager comes, adding that is a must. Mayor King then stated the Council has a couple of options they know they have with Ms. Vicki Vivian and Mr. Brad Hamilton, adding both have stood in when Mr. Stephens has been out of the office. Mayor King then stated with Mr. Stephens having confidence in both of them, he thinks it's very important to follow that example. Mayor King then stated both of Ms. Vivian and Mr. Hamilton are very qualified to do the job, very involved in City business, asking Mr. Stephens to correct him if he's wrong. City Manager Bill Stephens stated he thinks both Ms. Vivian and Mr. Hamilton are qualified and competent, adding the thing that is different this time, is that when the Council hired him, Ms. Vivian was working solo and if that were still the case, the job might be a bit much, but Ms. Vivian now has a very competent deputy and that would no longer be an issue. Mr. Stephens then

stated again that both Mr. Hamilton and Ms. Vivian are very qualified and competent, and he knows that either one of them would step up, adding he also doesn't think either one would be upset if they weren't chosen, adding he thinks they are simply willing to do what is needed to help the City through to a point where the City Council is able to find a replacement through the selection process that was mentioned earlier.

Vice Mayor Konrad stated Mr. Stephens will still be City Manager up until that cutoff date of March 10 with Mr. Stephens stating he serves at the Council pleasure. Mr. Stephens then stated he would be out of the office for that entire time and although he couldn't think of anything at the moment, there may be things that require his attention specifically, adding it wouldn't be a problem for any given staff member to reach him. Mr. Stephens then stated with an interim present on a daily basis, the Council would have someone who would be physically present. Mr. Stephens then stated he didn't feel personally slighted at all and he would be more than happy to help in any way if the Council appoints an interim, then stated again that both Mr. Hamilton and Ms. Vivian are more than competent to make decisions and handle City business and if for some reason they needed to contact him, he would respond accordingly.

Councilmember Dempster stated there had been co-interim Managers in the past and asked if that had presented any problems with Mayor King stating he discussed Acting and co-Acting City Managers with Mr. Cohen last week. Mr. Cohen then stated he thinks that would be possible, but he believes Councilmember Dempster was asking for someone to explain that experience with Councilmember Dempster agreeing and asking if there were any problems with that.

Councilmember Lambert stated the City has never had a co-Interim City Manager; it has had co-Acting City Managers, then stated there is a difference between an Interim City Manager and an Acting City Manager. Councilmember Lambert then stated an Interim City Manager has all the authority of a City Manager and an Acting City Manager just takes care of 1 or 2 little fires or whatever needs to be done. Councilmember Lambert then stated the Council is talking about an Interim City Manager, who would be the actual City Manager on Staff to make decisions, hire and fire and do everything else a City Manager can do. Councilmember Lambert then stated an Acting City Manager is not eligible to hire, fire, or do any type of disciplinary action because they were just acting in place of the City Manager whenever the City Manager was just out of the office. Councilmember Lambert then stated the Interim City Managers in the past were Glenn Nichols, who served as Interim City Manager until he became the City Manager and Jim Cox, but neither were Acting City Managers as they had the full power of the City Manager's office. Councilmember Lambert then stated the City has never had co-Interim City Managers.

Mayor King stated there have been other Interim City Managers with Vice Mayor Konrad stating Mr. Hamilton was also an Interim City Manager at one time. Mayor King then stated Ann Roberts was also an Interim City Manager, adding he doesn't believe there have been any problems or big issues while there was an Interim City Manager in place.

Councilmember Dempster asked if there had been any co-Interim City Manager with City Clerk Vicki Vivian stating the City has never had any co-Interim City Managers. Councilmember Dempster then asked about co-Acting City Managers and what was done if a problem arose that they didn't have the authority to handle with Ms. Vivian stating as the Acting City Manager, she knew she had limits and did not have the full rights and responsibilities of a City Manager or of an Interim City Manager, so if there had been an issue that required the full weight of the City Manager's position, she would have contacted the City Manager, adding as Acting City Manager, she wouldn't make a decision that exceeded her authority, but as an Interim City Manager, she would have that authority.

Councilmember Dempster then asked if an Interim City Manager could delegate to some sort of an assistant so 2 people would have the authority to do things with Mayor King asking Mr. Cohen to weigh in on the question. Mr. Cohen stated the distinctions were foreign to him, adding if there is an Acting City Manager, the authority is limited only if the Council limits it, adding it depends on how the Council describes the duties. Mr. Cohen then stated this is the reason the executive session was on the agenda. Mr. Cohen then stated if the Council thinks there is a distinction, they could appoint an Acting City Manager to act until March 10 and then the Acting City Manager could transform to the Interim City Manager and have the full authority of the position. Mr. Cohen then

stated if the Council wants an Acting City Manager, they could explain what the Acting City Manager's authorities are to the extent that they are less than an Interim City Manager.

Councilmember Dempster stated his original question was if there were any problems with 2 people being whatever the Council chooses to call them, because both of their authority could be established by the Council. Mr. Cohen stated he wasn't aware of any problems with co-Acting City Managers, but one issue that comes to mind that the Council will need to think about is having 2 salary adjustments instead of 1, but again he was unaware of any problems, adding he didn't recall if it happened while he was the City Attorney.

Vice Mayor Konrad stated he thinks the duties should fall to 1 person, then stated the other thing he considers is that the City Manager serves at the pleasure of the Council and he doesn't want an Interim City Manager getting caught up in some kind of politics, adding he would like some kind of assurance that the employment status of the person they appoint to serve as the Interim City Manager until they appoint a regular full-time City Manager would not be affected by a decision of the Council. Vice Mayor Konrad then asked how the Council makes sure there is an assurance this would not happen. Mr. Cohen stated he thought a motion along the lines of what Vice Mayor Konrad just stated would work just fine, then added the only other thing the Council may want to consider is any sort of a salary adjustment. Mr. Cohen then stated the motion should address the appointment of an Interim City Manager with full authority of the office from this point until such time that a full-time City Manager is appointed; that the duties would be in addition to that person's current job position; that once a full-time City Manager begins their employment, the Interim City Manager would automatically return to their prior job and whatever salary adjustment the Council would or wouldn't want to make.

Councilmember Lambert stated he had spoken with Mr. Cohen extensively and also spoke to the current City Manager about his recommendations on what he felt would be in the best interest of the City. Councilmember Lambert then stated he has looked at staffing levels and believes that Mr. Hamilton has several jobs right now with the City, being the City Engineer, the Planning & Zoning Director, handling transportation and other duties, adding he believes Ms. Vivian would be the best choice at this point for an Interim City Manager, noting she does have a very competent Deputy Clerk who all the Council has had interaction with. Councilmember Lambert then stated the City just hired an HR Coordinator and an office assistant for the City Manager who starts next week. Councilmember Lambert then stated this will mean there will be 4 people in the Administration office, so he believes Ms. Vivian would be the best person for the job. Councilmember Lambert then stated he has looked at her current salary and what the City Manager's paygrade is and he believes if the Council appoints Ms. Vivian as the Interim City Manager and gave her an additional \$2,000 a month, it would put her at the bottom of the scale for the City Manager position. Councilmember Lambert then stated the Council would keep her in place as the Interim City Manager with the full power of the City Manager as it is known now, for approximately 4 to 6 months, depending on the next item. Councilmember Lambert then moved to appoint Vicki Vivian, the City Clerk as the Interim City Manager, with her retaining her position as the City Clerk so she will go back to the City Clerk position as soon as she's done and to add \$2,000 per month to her pay until the City Manager is selected, adding it should be about 6 months which would cost the City between \$10,000 and \$12,000. Councilmember Lambert then asked if there was anything else someone would like in the motion with Vice Mayor Konrad stating he would like the motion to include that Ms. Vivian would return to her prior position as City Clerk in full capacity and that her status as an employee would be unaffected by any decision of the Council made during the time she served as Interim City Manager. Councilmember Lambert stated he would agree to adding that to the motion. Seconded by Councilmember Garner.

Vice Mayor Konrad then asked Councilmember Lambert to restate the full motion for clarification. Mr. Cohen said the Council could ask Ms. Vivian to read the motion to Council and after she reads it back, Council may entertain a friendly motion to amend the motion, adding he would ask that the motion be changed to reflect that Ms. Vivian would serve as an Interim City Manager until such time that the new City Manager begins employment instead of when the new City Manager is selected.

City Clerk Vicki Vivian stated Councilmember Lambert made several statements and then moved to appoint Vicki Vivian, the City Clerk, as an Interim City Manager, but that she would retain her position as City Clerk and would go back to it when she's done, adding \$2,000 per month to her pay until the Council selects a full-time City Manager, which would be in about 6 months and cost \$10,000 to \$12,000. Ms. Vivian then stated that Vice Mayor Konrad then added that he would like it to state Ms. Vivian would return to the City Clerk position in full

capacity and that her status as an employee would be unaffected by any decision Council made during that employment period. Councilmember Lambert stated the motion was correct and that he would amend his motion to reflect until the new City Manager begins employment. Amended motion seconded by Councilmember Garner.

Mayor King stated the City Manager position often gets pulled in different directions and he wanted to make sure that everyone knows the Interim City Manager answers to the Council, as a whole. Mayor King stated it was important to know that and he wanted to make sure it was clear.

Councilmember Lambert stated Mr. Stephens would be keeping his phone until March 10 and asked Mr. Hamilton if there was a phone available for Ms. Vivian, with Mr. Hamilton stating he would get a phone for her to use.

Motion then passed 4-1 with Councilmember Dempster voting nay.

**EXECUTIVE SESSION:** Executive session pursuant to A.R.S. section 38-431.03(A)(1), (3) and (4) regarding City Manager Stephens' recent resignation, existing contract, and relevant terms thereof for the remainder of his tenure.

Councilmember Lambert moved to enter into an executive session with the Mayor and Council, the City Clerk/Interim City Manager, the City Attorney, the current City Manager and the HR Coordinator at 8:08 p.m. Seconded by Vice Mayor Konrad. Motion passed 5-0.

Council reconvened at 8:53 p.m.

**ADJOURNMENT:**

Vice Mayor Konrad moved to adjourn at 8:53 p.m. Seconded by Councilmember Garner. Motion passed 4-1 with Councilmember Lambert voting nay.

\_\_\_\_\_  
Toney D. King, Sr., Mayor

ATTEST:

\_\_\_\_\_  
Vicki L. Vivian, CMC, City Clerk

# City of Benson City Council Communication



Special Meeting

February 5, 2018

To: Mayor and Council

Agenda Item # 2

From: Vicki L. Vivian, Interim City Manager/City Clerk

## Subject:

Discussion and possible action to appoint an individual to fill the Council seat vacated by Councilmember McGoffin

## Discussion:

On January 9, 2018 Councilmember Lori McGoffin resigned from the City Council. Per the City Code, a vacancy must be filled within 30 days.

State law (A.R.S. §9-235, A.) mandates that "The council shall fill a vacancy that may occur by appointment until the next regularly scheduled council election if the vacancy occurs more than thirty days before the nomination petition deadline, otherwise the appointment is for the unexpired term." Therefore, the appointed person will serve until December, 2018 and the 4-year term will then, along with 2 other 4-year terms and the 2-year Mayoral term, will be on the ballot in the August/November, 2018 election cycle.

The City Clerk's office advertised the vacancy and requested interested parties to complete the application process for possible consideration to be appointed to the Council Member position. Interested parties completed the requirements and those applications are attached for your review. Two of the three applicants were interested in being appointed to the previous vacancy in August, 2017 and were interviewed by Council at that time. The applicants were asked to be at the meeting on February 5 to answer any questions the Council may have and to be seated should Council appoint someone. Applicants were also advised that the City Council may consider another resident for the appointment.

## Staff Recommendation:

Council pleasure



AFFIDAVIT OF QUALIFICATION
CAMPAIGN FINANCE LAWS
STATEMENT

For Office Use Only

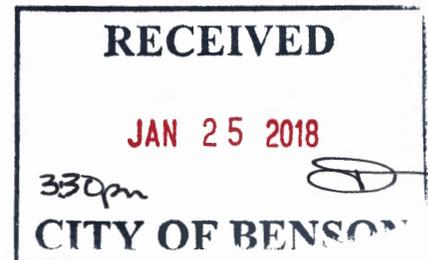
Name: JEFF COOK

You are hereby notified that I, the undersigned, a qualified elector, am a candidate to be appointed to the office of a Councilmember of the City of Benson, Arizona.

General qualifications for municipal officers (ARS §38-201)

Every officer shall:

- Not be less than eighteen (18) years of age
A citizen of the United States
A resident of Arizona



Specific qualifications for municipal officers (ARS §9-232)

In addition to the above qualifications, every elected municipal officer shall:

- Be a resident of the municipality
At the time of election (or appointment), be a resident of the municipality for one year preceding the election (or appointment)

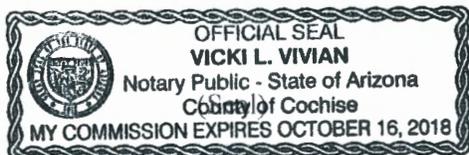
I do solemnly swear (or affirm) that, at the time of the application for the Appointment to the Benson City Council, I am a resident of the City which I propose to represent, and as to all other qualifications, I will be qualified at the time of the appointment to hold the office that I seek, having fulfilled the constitutional and statutory requirements for holding said office.

Residence Address: 147 W Huachuca BENSON 85602
(number and street) (city or town) (zip code)

Mailing Address: PO BOX 168 BENSON 85602
(number and street) (city or town) (zip code)

Signature of Candidate for Council Appointment

Subscribed and sworn to (or affirmed) before me this 25th day of January, 2018.



Signature of Notary Public: Vicki L. Vivian

I have been informed there are laws relating to campaign financing and reporting.

Signature of Candidate for Council Appointment



APPLICATION FOR  
APPOINTMENT TO THE  
CITY COUNCIL  
(REQUIRES THE AFFIDAVIT OF QUALIFICATION,  
CAMPAIGN FINANCE LAWS STATEMENT)

For Office Use Only

Name: JEFF COOK  
Address: 147 N HUADLUCA  
Phone: 520-360-4858  
Email: JEFF.COOK59@YAHOO.COM

1. Please state why you would like to serve.  
I CAN ADD INDEPENDANT THOUGHT + RESEARCH TO VARIOUS ISSUES.

2. What do you believe to be the key responsibility of this position?  
REPRESENTING THE CONCERNS OF THE MAJORITY OF BENSON RESIDENTS.

3. Please state why you believe that a Councilmember can make a community better.  
A COUNCILMAN CAN RESIST WASTING CITY RESOURCES.

4. What personal and/or professional experience or background will be advantages to this appointment?  
3 1/2 YRS ON CITY COUNCIL

5. The Council has scheduled meetings every 2nd and 4th Monday of the month at 7:00 p.m., as well as Special meetings or Worksessions that may be called as needed. The meetings could last 2 or 3 hours. Will this be a hardship?

NO

6. Councilmembers may be asked to participate in sub-committees that meet other than the regularly scheduled meeting time. Will you be able to participate?

YES

List any Professional, trade, business, or civic activities and offices held. *You may exclude memberships which would reveal sex, race, religion, national origin, age, ancestry, or handicap or other protected status.*

city council

### APPLICANT'S STATEMENT

I certify that answers given herein are true and complete to the best of my knowledge. I authorize investigation of all statements contained in this application as may be necessary in arriving at an appointment decision by the City Council.

In the event of appointment,

- I understand that false or misleading information given in my application may result in my being excused from the Council.
- I understand that attendance is important and I will strive to attend all meetings and that continual absences will result in my being removed from the Council.
- I understand that I am required to abide by all Arizona and City of Benson Statutes and Regulations adopted by these governing organizations.
- I understand that this application is subject to the Arizona Open Records law and should not be considered confidential.

[Signature]  
Signature of Applicant

01-25-18  
Date

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#### Office Use Only

Appointment Date: \_\_\_\_\_

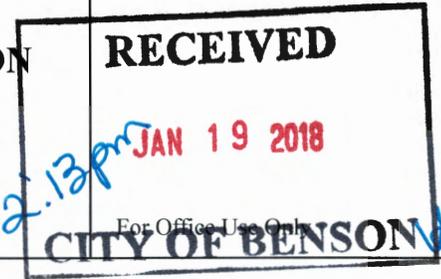
Term of Position: \_\_\_\_\_

Date of Resignation/Term End: \_\_\_\_\_

Notification by: \_\_\_\_\_



AFFIDAVIT OF QUALIFICATION
CAMPAIGN FINANCE LAWS
STATEMENT



Name: Lupe U. DIAZ

You are hereby notified that I, the undersigned, a qualified elector, am a candidate to be appointed to the office of a Councilmember of the City of Benson, Arizona.

General qualifications for municipal officers (ARS §38-201)

Every officer shall:

- Not be less than eighteen (18) years of age
A citizen of the United States
A resident of Arizona

Specific qualifications for municipal officers (ARS §9-232)

In addition to the above qualifications, every elected municipal officer shall:

- Be a resident of the municipality
At the time of election (or appointment), be a resident of the municipality for one year preceding the election (or appointment)

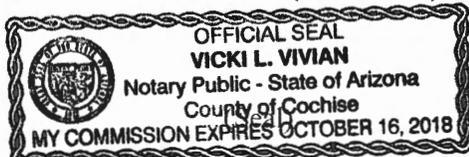
I do solemnly swear (or affirm) that, at the time of the application for the Appointment to the Benson City Council, I am a resident of the City which I propose to represent, and as to all other qualifications, I will be qualified at the time of the appointment to hold the office that I seek, having fulfilled the constitutional and statutory requirements for holding said office.

Residence Address: 992 S. Post Rd Benson 85602
(number and street) (city or town) (zip code)

Mailing Address: Same as Residence
(number and street) (city or town) (zip code)

Signature of Candidate for Council Appointment

Subscribed and sworn to (or affirmed) before me this 19th day of January, 2018.



Signature of Notary Public

I have been informed there are laws relating to campaign financing and reporting.

Signature of Candidate for Council Appointment



APPLICATION FOR APPOINTMENT TO THE CITY COUNCIL

(REQUIRES THE AFFIDAVIT OF QUALIFICATION, CAMPAIGN FINANCE LAWS STATEMENT)

RECEIVED JAN 19 2018 CITY OF BENSON

Name: Lupe DIAZ
Address: 952 S. Post Rd Benson Az 85602
Phone: 520 686-0490
Email: Lupe777 DIAZ@gmail.com

1. Please state why you would like to serve. To be part of the group that guides city affairs.

2. What do you believe to be the key responsibility of this position? To provide direction through resolutions, directives and oversight; for the city to operate in a responsible and smooth course.

3. Please state why you believe that a Councilmember can make a community better. What the city does affects the overall community. The council is the representation of the people to help the two groups to build a better community and bring them to the table.

4. What personal and/or professional experience or background will be advantages to this appointment? As pastor/president of Grace Chapel Benson for 30 yrs care and oversight of committees, budgets, projects. my understanding of people and working with people is an asset. My ability to communicate and instruct is also a vital part of this appointment.

5. The Council has scheduled meetings every 2nd and 4th Monday of the month at 7:00 p.m., as well as Special meetings or Worksessions that may be called as needed. The meetings could last 2 or 3 hours. Will this be a hardship? No

6. Councilmembers may be asked to participate in sub-committees that meet other than the regularly scheduled meeting time. Will you be able to participate?

*Yes - if it is not done on Wednesday nights.*

List any Professional, trade, business, or civic activities and offices held. You may exclude memberships which would reveal sex, race, religion, national origin, age, ancestry, or handicap or other protected status.

*Benson Chamber of Commerce President for 2-2yr. terms  
Benson Municipal Association president 1989-2009  
Part Time Faculty (instructor) Coconino College. 3yrs  
Serve on Benson's Bar Committee & Economic Development sub-committee.*

### APPLICANT'S STATEMENT

I certify that answers given herein are true and complete to the best of my knowledge. I authorize investigation of all statements contained in this application as may be necessary in arriving at an appointment decision by the City Council.

In the event of appointment,

- I understand that false or misleading information given in my application may result in my being excused from the Council.
- I understand that attendance is important and I will strive to attend all meetings and that continual absences will result in my being removed from the Council.
- I understand that I am required to abide by all Arizona and City of Benson Statutes and Regulations adopted by these governing organizations.
- I understand that this application is subject to the Arizona Open Records law and should not be considered confidential.

*[Handwritten Signature]*  
\_\_\_\_\_  
Signature of Applicant

*1/19/18*  
\_\_\_\_\_  
Date

### Office Use Only

Appointment Date: \_\_\_\_\_

Term of Position: \_\_\_\_\_

Date of Resignation/Term End: \_\_\_\_\_

Notification by: \_\_\_\_\_



AFFIDAVIT OF QUALIFICATION
CAMPAIGN FINANCE LAWS
STATEMENT

For Office Use Only

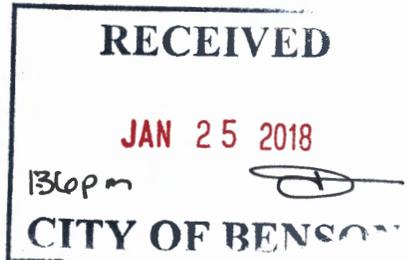
Name: Michael Patrick Jabkowski

You are hereby notified that I, the undersigned, a qualified elector, am a candidate to be appointed to the office of a Councilmember of the City of Benson, Arizona.

General qualifications for municipal officers (ARS §38-201)

Every officer shall:

- Not be less than eighteen (18) years of age
A citizen of the United States
A resident of Arizona



Specific qualifications for municipal officers (ARS §9-232)

In addition to the above qualifications, every elected municipal officer shall:

- Be a resident of the municipality
At the time of election (or appointment), be a resident of the municipality for one year preceding the election (or appointment)

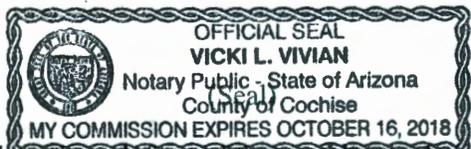
I do solemnly swear (or affirm) that, at the time of the application for the Appointment to the Benson City Council, I am a resident of the City which I propose to represent, and as to all other qualifications, I will be qualified at the time of the appointment to hold the office that I seek, having fulfilled the constitutional and statutory requirements for holding said office.

Residence Address: 330 E Pearl St, Benson, 85602

Mailing Address: 330 E. Pearl St, Benson, 85602

Signature of Candidate for Council Appointment

Subscribed and sworn to (or affirmed) before me this 25th day of January, 2018.



Signature of Notary Public

I have been informed there are laws relating to campaign financing and reporting.

Signature of Candidate for Council Appointment



APPLICATION FOR APPOINTMENT TO THE CITY COUNCIL

(REQUIRES THE AFFIDAVIT OF QUALIFICATION, CAMPAIGN FINANCE LAWS STATEMENT)

For Office Use Only

Name: Michael Patrick Jablowski
Address: 330 E. Pearl St Benson AZ 85602
Phone: 520-595-6334
Email: jab2373@kanoa.com

1. Please state why you would like to serve.

I would like to give back to the community. I would like to make a difference in the community. I would like to see my efforts affect the lives of the citizens of the community.

2. What do you believe to be the key responsibility of this position?

TO work cooperatively with members of city council and city officials to make a difference in the community.

3. Please state why you believe that a Councilmember can make a community better.

A council member serves the members of the community. They work together to come up with solutions to issues raised within the community.

4. What personal and/or professional experience or background will be advantages to this appointment?

I am currently serving on the Planning and Zoning Commission. I have experience being a Sub Contractor managing and keeping to a budget. I work with the public on a daily basis to provide excellent service.

5. The Council has scheduled meetings every 2nd and 4th Monday of the month at 7:00 p.m., as well as Special meetings or Worksessions that may be called as needed. The meetings could last 2 or 3 hours. Will this be a hardship?

NO, this would not be a hardship. I look forward to giving back to the community.

6. Councilmembers may be asked to participate in sub-committees that meet other than the regularly scheduled meeting time. Will you be able to participate?

Yes, I would be able to participate.

List any Professional, trade, business, or civic activities and offices held. You may exclude memberships which would reveal sex, race, religion, national origin, age, ancestry, or handicap or other protected status.

Commissioner on Planning and Zoning Commission  
Past ASE Certification in Electrical and Brakes  
Service on Qit subcommittee at Shaw Industries

## APPLICANT'S STATEMENT

I certify that answers given herein are true and complete to the best of my knowledge. I authorize investigation of all statements contained in this application as may be necessary in arriving at an appointment decision by the City Council.

In the event of appointment,

- I understand that false or misleading information given in my application may result in my being excused from the Council.
- I understand that attendance is important and I will strive to attend all meetings and that continual absences will result in my being removed from the Council.
- I understand that I am required to abide by all Arizona and City of Benson Statutes and Regulations adopted by these governing organizations.
- I understand that this application is subject to the Arizona Open Records law and should not be considered confidential.

Michael P. Johnson  
Signature of Applicant

1/25/18  
Date

### Office Use Only

Appointment Date: \_\_\_\_\_

Term of Position: \_\_\_\_\_

Date of Resignation/Term End: \_\_\_\_\_

Notification by: \_\_\_\_\_