

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD MARCH 23, 2009 AT 7:00 P.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

**MAYOR FENN
OPENED THE MEETING AT 7:00 P.M WITH
THE PLEDGE OF ALLEGIANCE.**

**PRESENT WERE: MAYOR FENN, VICE MAYOR KING
COUNCILMEMBERS BONCQUET, LAMBERT, LODZINSKI, McGOFFIN and SACCO**

INVOCATION:

Mayor Fenn introduced Bishop Ashby of the Pomerene Ward of the Church of Jesus Christ of Latter-Day Saints who gave the invocation.

PROCLAMATION:

Mayor Fenn stated he was invited to present the proclamation at the VFW Ladies' Auxiliary Meeting, stating that the National President of the VFW Ladies' Auxiliary would be attending, which was a first for Benson. Mayor Fenn then read the proclamation declaring March 27, 2009 as Veterans of Foreign Wars Ladies' Auxiliary Day in the City of Benson.

**EMPLOYEE
RECOGNITION:**

None.

PUBLIC HEARING:

Mayor Fenn opened the public hearing to receive comments and questions from the public regarding Cochise Terrace RV Resort's application for a bingo license at 7:03 p.m. Cochise Terrace RV Resort is located at 1030 S. Barrel Cactus Road, Benson, Arizona. Mayor Fenn indicated no one had signed up for the public hearing and asked if there were comments from any others present who wished to speak. Mr. Russell Andrews, a resident and representative of Cochise Terrace RV Resort addressed Council stating they were requesting a Class A license for the park with Bingo being held on Thursday evenings. Mr. Andrews stated if the park got to the point of requiring a Class B license, they would apply for that license under the auxiliary organization "Helping Hands @ Cochise Terrace". Mayor Fenn then asked if there were any others present who wished to speak. After receiving no further comments from the public, Mayor Fenn closed the public hearing at 7:05 p.m.

CALL TO THE PUBLIC:

John Whiteside addressed Council stating he was in favor of appointing Glenn Nichols as the City Manager. Mr. Whiteside's comments are incorporated in the minutes.

Paul Lotsof addressed Council stating the first item of New Business calls for Council to declare the election results official. Mr. Lotsof stated the one statistic he felt was most significant is not included in the canvass; the figure of 73% of all registered voters who failed to vote. Mr. Lotsof stated it was very tempting to conclude that the voters have spoken, but that it would be far more accurate to say that the voters have not spoken, when only a quarter of them had anything to say at all. Mr. Lotsof then stated there were two businesses along Highway 80, which needed some

attention, stating it was very likely no one was looking out for the public's interest in either case. Mr. Lotsof stated there are a significant number of jobs at stake as well as tax revenue. Mr. Lotsof stated both businesses and the City would benefit with local ownership, operated by some party who believes in the Benson marketplace. Mr. Lotsof then stated recently there was some talk that the Benson Economic Development Subcommittee become involved in business retention, which was impossible when the Subcommittee had no staffing and no budget. Mr. Lotsof then stated, personally, he felt the main task for a Community Development person should be to sell industry on what Benson has to offer and that we need an Economic Development agency with the means to accomplish its goals and that it should be addressed as soon as possible. Mr. Lotsof concluded by stating a lot of money and economic impact was at stake and if we sit back and wait the people of Benson may end up on the short end of the stick.

Kathy Suagee addressed Council stating the Council should approve Glenn Nichols to continue as Interim City Manager for period of three months, which should be enough time to do an appropriate and legal search for the qualified individual for the positions. Ms. Suagee's comments are incorporated in the minutes.

CONSENT AGENDA:

- 1a. Approval of Minutes of the March 9, 2009 Worksession
- 1b. Approval of Minutes of the March 9, 2009 Regular Meeting
- 1c. Reappointment of Walter Schmidt to the Benson Industrial Development Authority
- 1d. Reappointment of Dell Mellentine to the Benson Industrial Development Authority
- 1e. Resolution 22-2009 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the application by the Benson Arts Commission for Grant Funds from the Arizona Commission on the Arts
- 1f. Resignation of Kim Lockhart from the Mayor's 4th of July Committee
- 1g. Resignation of Virgil Judd from the Mayor's 4th of July Committee
- 1h. Amended Job Description for the position of Deputy City Clerk
- 1i. Processed Invoices for March 3, 2009 through March 16, 2009

Vice Mayor King moved to approve the Consent Agenda. Seconded by Councilmember Sacco. Motion passed 6-0 with Councilmember McGoffin abstaining.

NEW BUSINESS:

1. **Resolution 23-2009 of the Mayor and Council of the City of Benson, Arizona, canvassing, declaring, and adopting the results of the Primary Election held on March 10, 2009**

City Clerk Vicki Vivian addressed Council stating the proposed resolution complied with State law that requires the City declare an official canvass of the vote between 6 and 20 days after an election is held. Councilmember McGoffin moved to approve Resolution 23-2009. Seconded by Councilmember Lambert. Motion passed 7-0.

2. **Resolution 24-2009 of the Mayor and Council of the City of Benson, Arizona, recommending approval of the issuance of a Class A Bingo License to the Cochise Terrace RV Resort**

City Clerk Vicki Vivian addressed Council stating an applicant for a bingo license shall submit to a local governing body the fee and license fee together with a written application and that once the local governing body receives the application, they are to recommend approval or disapproval of the application, the City Clerk is to forward that information to the Arizona Department of Revenue. Mayor Fenn verified the Council did not actually approve the license, but makes a recommendation to the proper licensing authority, the Arizona Department of Revenue. Councilmember Boncquet asked about the difference in a Class A and a Class B license with Mr.

Andrews of Cochise Terrace explaining the main difference was the volume of business and revenue generated. Mr. Andrews stated if over \$15,000 annually in gross receipts were generated, the State would require a Class B and at such time, Cochise Terrace would apply for that license through Helping Hands @ Cochise Terrace, bringing the application before Council for their recommendation to the State. Councilmember Lodzinski moved to approve Resolution 24-2009. Seconded by Vice Mayor King. Motion passed 6-0 with Councilmember Sacco abstaining.

3. **Resolution 25-2009 of the Mayor and Council of the City of Benson, Arizona, approving a Special Event License for Helping Hands @ Cochise Terrace for March 27, 2009 at Cochise Terrace, 1030 S. Barrel Cactus Ridge, Benson, Arizona**

Vice Mayor King asked how many events were allowed by law, with City Clerk Vicki Vivian stated under State law, an organization was allowed 10 special event licenses per calendar year, with this request being the third special event license for Helping Hands @ Cochise Terrace. Councilmember Lambert moved to approve Resolution 25-2009. Seconded by Councilmember Lodzinski. Motion passed 6-0 with Councilmember Sacco abstaining.

4. **Review and Projection of City Finances: The City's Finance Director will make a presentation to the Council concerning the present and future financial status of the City. His presentation will emphasize February 2009 results, projection of fiscal 2008-2009 year end and City Transaction Privilege Tax collections**

Finance Director Jim Cox addressed Council stating the City was now in its third month of operating in the economic conditions and that while we were doing better than most communities, we need to continue keeping a watchful eye on the City's financial conditions. Mr. Cox then addressed the summary of all City funds, which includes the utility funds and the general fund. Mr. Cox stated our fund balances look the same as they did at the beginning of the fiscal year and that he was projecting, by the end of the fiscal year, all City fund balances would be slightly positive. Mr. Cox then addressed City Tax collections, including Sales Tax, Construction Tax and Bed Tax collections. Mr. Cox stated our sales tax collections compared to sales tax collections in February, 2008 were up by \$20,000.00, but were still down by almost 10% year to date. Mr. Cox stated February's sales tax was a positive sign and that March was following with strong sales tax collections, which was very encouraging. Mayor Fenn thanked Mr. Cox and asked him to keep Council up to date regarding the City's finances.

5. **Direction and possible action regarding the City owned property at 160 S. Huachuca Street, Benson, Arizona**

Interim City Manager Glenn Nichols addressed Council stating the building at 160 S. Huachuca Street had been placed in an auction, but that the highest bidder, Mr. George Nerhan informed the City he was donating his bid to the City, since he did not have the ability to move the building. Mr. Nichols then stated staff was seeking direction on the disposal of the building. Mayor Fenn verified the only source of advertising was the City's surplus auction website. Mayor Fenn then stated part of the hindrance on the building was that the asbestos issue would have to be addressed, which could be costly. Public Works Director Brad Hamilton then addressed Council stating Mr. Nerhan had the building tested and that it tested positive for asbestos, but that Mr. Nerhan did not have an estimate for the removal. Mayor Fenn then stated for the public that the Council was only looking at the removal of the building with the City retaining the property. Mayor Fenn then stated he was familiar with a company in Tucson that addressed asbestos removal and that the gentleman lived in Benson and that he may be willing to give a rough estimate to address the asbestos and would get the information for Mr. Hamilton to contact him. Mr. Hamilton stated he had obtained a quote for an asbestos survey, which would consist of testing, a remediation plan and an estimate to execute the plan for approximately \$6,500.00. Council concurred staff should try to acquire a realistic figure for the asbestos removal and to

look at other advertising alternatives, in addition to the City Surplus Auction website and placing signs on the building; stating that depending on information gathered for the estimate to address the asbestos, it may be best to let the building remain vacant until a future time.

6. Discussion regarding the scheduling of a City Council Retreat

Mayor Fenn stated a date could be scheduled for a retreat to review goals for the City, adding a Strategic Plan had been created by the Council in 2005 and that the Council could use it to compare thoughts and goals of the current Council. Mayor Fenn then stated one challenge was to select a day that Council could devote to a retreat. Discussion then included having a session of items the Council would like to see achieved in the next two years, a session for City Department Heads to address Council regarding their department goals and objectives, as well as a session to review and update the Council's Strategic Plan. Mayor Fenn then stated if each Councilmember focused on different areas, the Council could be more effective, and Council should be prepared to consider areas they would like to specialize in. Vice Mayor King stated he felt Jim Cox, the Finance Director should also address Council concerning City finances and possible triggering points in which projects may be considered. After discussion, Council set April 23, 2009 as the tentative date for a Council Retreat and directed City Clerk Vicki Vivian to see if a room was available at the Benson branch of the Cochise College.

7. Discussion and possible action concerning the position of Interim City Manager

Mayor Fenn stated it was approximately 6 months ago that Council appointed Glenn Nichols as the Interim City Manager for a period for 6 months and the item was open for Council to discuss and give their thoughts and possible direction. Councilmember Lodzinski stated the Council needed to fill the City Manager position, so that the City could move forward on issues that had been put on hold and that if Council chose to offer the position to Mr. Nichols, the Council would also need to consider the position of the Police Chief or an Acting Police Chief. Councilmember McGoffin said she had been pleased with Mr. Nichol's performance in the position, stating she had no doubt that he could do the job professionally. Councilmember McGoffin then asked the Council if they wanted to go out and spend money when the Council is satisfied with the current management. Councilmember Bonquet stated she felt Mr. Nichols has done an excellent job and has run the City efficiently and the Council should look at possibly offering him the position. Councilmember Lambert stated he had the opportunity to speak to many of the employees of the City and that the City has been run in a more harmonious state without conflict and problems, that Mr. Nichols has done an excellent job and that while Mr. Nichols may have a few shortcomings, no person they hired would be the perfect choice for any position in any government agency. Councilmember Lambert then stated his opinion was that Council should appoint Mr. Nichols as the City Manager, if Mr. Nichols agreed. Vice Mayor King stated he felt Mr. Nichols has done a great job and that Council should make decisions regarding the City Manager position and the Police Chief position, also taking cost factors into consideration. Councilmember Sacco agreed with Mr. Whiteside, who addressed Council during the call to the public, stating Mr. Nichols had been in the position of the Interim City Manager for almost 6 months and had been doing an excellent job, the employees were happy and administration was running smoothly. Councilmember Sacco then moved to eliminate the position of Interim City Manager and appoint Glenn Nichols as the permanent City Manager. City Attorney Thomas Benavidez then addressed Council stating the agenda language was not appropriate to take action in that capacity. Mayor Fenn then stated he felt the proper way to address this item would be to have the required language on the next agenda and that Council should have an executive session to discuss a the appointment of a City Manager as well as a contract for the position, with Mr. Benavidez agreeing. Mayor Fenn then stated that he understood Councilmember Lodzinski's statements regarding some projects being put on hold, but that it may be due to the virtue of the title "Interim" City Manager and the City was in a tentative mode. Mayor Fenn then stated he had no doubt that if Mr. Nichols was appointed as the City Manager it would give Mr. Nichols the ability to move forward. Mayor Fenn then stated if Mr. Nichols were appointed as the City Manager, the

Council would need to address the Police Department and stated the Police Chief would be most informed and able to make a recommendation, asking Mr. Nichols how he saw the issue. Mr. Nichols then addressed Council stating Lt. Paul Moncada has been running the day to day operations with Mr. Nichols overseeing the Police Department and that operations have run smoothly both at the Police Department and at City Hall. Mr. Nichols then stated he would recommend appointing Lt. Paul Moncada as the Acting Police Chief, enabling the City to operate effectively and allowing the City to save funding. Mayor Fenn then stated the issue of the City Manager and the Police Chief would be addressed at the next Council meeting, with an executive session and action items being placed on the agenda. Mayor Fenn then stated many in the business community and many citizens have expressed to him their desire to see Mr. Nichols continue on as the City Manager. Mayor Fenn then stated the consensus of the Council was not to advertise for the position at this time, saying he felt the Council was financially prudent in the steps they have taken regarding the City Manager. Councilmember Sacco's motion died for a lack of a second.

CITY MANAGER REPORT:

Interim City Manager Glenn Nichols addressed Council with upcoming meetings:

- April 1, 2009 – Mayor's 4th of July Committee, 3:30 p.m., Visitor's Center
- April 7, 2009 – Planning & Zoning Meeting, 7:00 p.m., City Hall
- April 13, 2009 – Council Meeting, 7:00 p.m., City Hall
- April 14, 2009 – Arts Commission Meeting, 9:00 a.m., City Hall
- Library Board Meeting, 4:00 p.m., City Library
- April 18, 2009 – Historic Preservation Commission Meeting, 9:00 a.m., City Hall
- April 27, 2009 – Council Meeting, 7:00 p.m., City Hall

Mr. Nichols then informed Council with upcoming events:

- April 4, 2009 – Little League Parade, 9:00 a.m., Starting on Patagonia Street at the Primary School parking lot; ending at Lion's Park baseball field
- April 11, 2009 – Benson Firemates Easter Egg Hunt, 10:00 a.m., Lion's Park
- April 24-26, 2009 – Bluegrass in the Park
- April 28, 2009 – Community Water Alliance Meeting, 6:30 p.m., City Hall

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Councilmember McGoffin moved to adjourn at 8:14 p.m. Seconded by Councilmember Sacco. Motion passed 7-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk