

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD MARCH 22, 2010 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.

ROLL CALL:

Present were: Mayor Mark M. Fenn and Vice Mayor Toney King, Sr. (via telephone) and Councilmembers Jo Deen Boncquet, David Lambert, John Lodzinski and Al Sacco. Excused was: Councilmember Lori McGoffin.

EMPLOYEE RECOGNITION: None

PROCLAMATION:

Mayor Fenn read a proclamation declaring April 23rd, 24th and 25th, 2010 as "Benson Bluegrass Weekend". Mayor Fenn then thanked the Benson/San Pedro Valley Chamber of Commerce for promoting this event each year.

Mayor Fenn then read a proclamation declaring April 11-17, 2010 as "National Library Week". Mayor Fenn then thanked City Library Director Peggy Scott for the work done at the library.

PUBLIC HEARING:

Mayor Fenn opened the public hearing to receive comments from the public on a proposed major amendment to the General Development Plan that includes changes to land use designation on up to 148 acres of land west of SR-90, in the vicinity of I-10 at 7:04 p.m. Mayor Fenn then stated one person, Mr. John Whiteside, had signed up for the public hearing and invited Mr. Whiteside to come forward and address the Council. Mr. Whiteside addressed Council regarding the proposed major amendment to the General Development Plan. Mr. Whiteside's comments are incorporated into the minutes.

Mayor Fenn then closed the public hearing at 7:08 p.m.

CALL TO THE PUBLIC:

James T. Trail addressed Council in opposition to the re-platting of Cochise Terrace. Mr. Trail asked Council to table the item until there is more investigation, stating in his mind, the ownership of the common areas was in question. Mr. Trail then said he had a copy of 2 deeds; one dated January 9, 2003 which deeded the common area property from Cochise Terrace L.L.C. to the lot owners corporation, and a second deed dated June 17, 2003 which deeded the land back. Mr. Trail then stated there was also the question of who had the right to deed this property back to Cochise Terrace L.L.C.

FBLA President Sarah Kading and Vice President Chelsea Layton addressed Council about their annual community service project. Ms. Kading stated this year they have partnered with AEPCO and will distribute door hangars to the community, giving the information on all the recycling opportunities in Benson on one side and the other side will give information on AEPCO and their "together we save" campaign. Ms. Kading then stated they wanted to let Council know the entire FBLA organization will be involved in the distribution of these door hangars on Saturday. Ms. Layton then stated they will be writing

a report on this project which will be submitted to the State Competition in April and if it places high enough, they will advance to the National Competition saying they are excited about the project and they hope they have everyone's support. Mayor Fenn thanked them for this information and wished them well in their endeavors.

Sylvia Burnside representing the San Pedro River Arts Council addressed Council thanking them and the City of Benson for supporting their recent "Celebrate the Arts" event that took place from March 13-20 at Cochise College. Ms. Burnside stated they had a number of very successful events and the Arts Council was very pleased and that the City Council should be pleased since the college, City Council and the City are partners in bringing arts to the area. Ms. Burnside again thanked the City Council and stated they hope to do this event again. Mayor Fenn thanked Ms. Burnside and the Arts Council for their efforts to promote the arts in our community.

Ted Amox addressed Council stating he was the surveyor who prepared the re-subdivision plats for Mr. Art Bale for Cochise Terrace. Mr. Amox stated he was hoping to clarify a few matters and also to make an offer to Council and the residents, adding that he had spoken to Mr. Bale, who is in favor of the offer, which is to create a conservation easement that would encompass this expansion area and place the conservation easement data on the survey plat. Mr. Amox then stated once it is recorded, this would restrict any building whatsoever or any alteration of grades or drainage and that it's a stronger instrument than the development agreement and is more enforceable. Mr. Amox then said he had heard that the flooding in the one part on the south side of the area they are working on is a concern of some of the residents and wanted to make sure everyone knew that the flood lines established when the development was in its raw stages were established by a private engineering firm, Presidio, and that it was a private study done by those civil engineers; not a flood study that was performed or published by FEMA, so it is not a FEMA flood map. Mr. Amox stated City Staff has copies of those flood studies and that on the original plat, 1 or 2 of the original lots' rear lot line barely encroached by approximately a foot into that area. Mr. Amox then stated to extend the lots 10 feet; some of the lots would extend into that area on the study, but stated once again that it's a private study. Mr. Amox then said the issue of the ownership of the common area property will be resolved with the title report, which will determine the owners.

Dennis Moore of Cochise Terrace addressed Council stating he would like to clarify a few comments after speaking with Public Works Director Brad Hamilton. Mr. Moore stated there is 1 lot in the area that has had some dirt added to it, unknown to the owner, him or any one who worked there, stating one gentleman who works there in the winter time decided to do them a favor and added some dirt. Mr. Moore called the Planning & Zoning Department and asked if they needed to remove it, stating he was told no, but in talking with Mr. Hamilton, Mr. Moore assured Mr. Hamilton that the dirt will be removed and that he will take pictures to show it has been done. Mr. Moore then stated they thought all the paperwork was complete on the title report, but the City Attorney had informed him that there are 2 issues that need to be resolved. Mr. Moore said he will contact the title company and see if he can get the issues clarified and taken care of before the next Council meeting.

Moe Sinsley from Tombstone, Arizona addressed Council regarding water concerns, stating one of the things taking place is the overbuilding in Sierra Vista and that they don't have the water and want to go to other different areas to consume water from them. Mr. Sinsley said he feels that where people come in with big lots to build a lot of houses, that for every 25 houses built, they should be equipped with gray water and every lot should collect gray water. Mr. Sinsley then said people should be conservative and in Council's wisdom, they should control the water and gray water on all the buildings that are going to be built, stating it would greatly help the rest of us. Mr. Sinsley then thanked Council for their time.

CITY MANAGER REPORT:

Mayor Fenn stated City Manager Glenn Nichols was absent due to an illness, excused the City Manager and moved on to New Business.

NEW BUSINESS:

1. Consent Agenda

- 1a. Minutes of the March 8, 2010 Worksession
- 1b. Minutes of the March 8, 2010 Regular Meeting
- 1c. Invoices processed for the period from March 2, 2010 through March 15, 2010

Councilmember Boncquet moved to approve the Consent Agenda. Seconded by Councilmember Lambert. Motion passed 5-0 with Vice Mayor King abstaining.

2. Presentation of a United States flag to the Benson Fire Department and its volunteers

Fire Chief Keith Spangler addressed Council stating a few months ago, former Fire Chief Max Jones informed him of long time family residents from the area that have a son serving in Iraq and that he wanted to donate a flag to the Fire Department in honor of the volunteers that provide protection to the City. Fire Chief Spangler then stated he had shadow boxes made for the flag and for the certificate of authenticity, which was accompanied by a letter from Staff Sergeant Jude Snell explaining why he wanted the Fire Department to have the flag. Fire Chief Spangler then stated he also had a plaque made that tells that on September 11, 2009, this flag was flown over the Gator Sector Command Post, Kirkuk Regional Air Base/ Forward Operating Base, Warrior, Iraq by the members of the 506th Expeditionary Security Forces Squadron while conducting combat operations in Iraq. Staff Sergeant Snell's parents were there and they wanted to donate the flag to the Fire Department in a formal setting. Mayor Fenn then recognized Staff Sergeant Snell's parents, Larry and Mary Lou Snell and thanked them for this honor.

3. Discussion and possible action regarding the re-plat of Cochise Terrace RV rental spaces 164-169 and 200-236

Mayor Fenn stated in light of the comments that had been made, it sounded like Council needed more discussion. Councilmember Sacco stated he understood there are some problems with the title and then moved to table the item until further investigation is complete. City Attorney Michael Masee addressed Council stating there were a couple of items that did come up at the last minute, that he understood were being addressed and would be completed, so in the interest of moving forward, the item was placed on the agenda, however those matters had not been resolved at this time. Mr. Masee then stated he appreciated the comments made and thoughts shared with him from Councilmembers and he believes those will also be able to be addressed in the next couple weeks. Mr. Masee then stated as a point of clarification, a motion would be in order to table the item until a time that staff deemed it was ready to be placed on a future agenda. Councilmember Sacco stated that was his motion. Seconded by Councilmember Lambert. Motion passed 6-0.

4. Resolution 20-2010 of the Mayor and Council of the City of Benson, Arizona, approving a development agreement with Cochise Terrace, L.L.C.

Mayor Fenn stated this item is related to the previous item. Councilmember Sacco then moved to table this item. Seconded by Councilmember Lodzinski. Motion passed 6-0.

5. Review of City Finances with emphasis on February, 2010, financial results, the City's financial position at February 28, 2010, and discussion of future net revenues

Finance Director Jim Cox addressed Council stating for the first time in many months we can say we have positive results and that he believes it's an aberration, but that we should enjoy the moment while we can.

Mr. Cox then began with citywide financial highlights, stating the cash balances are up \$233,000 to \$2.5 million of unrestricted cash, however there were payments in the amount of \$105,000 that were not

included due to timing of the payments, meaning the increase for the month was \$100,000+.

Mr. Cox then stated the citywide fund balances increased by \$221,000 for the month of February, but were still down \$265,000 year-to-date, adding this was the first positive month in many months and noted that the February results were from the sales tax that was paid in the month of December.

Trend wise, Mr. Cox said he believes the fund balances will be positive for the next month or two, but then will go negative as business cycle slows down and winter visitors leave.

Mr. Cox then addressed citywide financial results, stating City revenues decreased by \$134,000 for the month of February and were down \$962,000 year-to-date, but that the only real reduction in revenue was \$221,000 related to construction sales tax since the other reductions in revenue were the large airport grant of \$407,000 we had last year and the decrease in natural gas revenues of \$229,000, stating this decrease reflected the reduction in price of natural gas, which in turn reduces our purchase expenses of natural gas.

Personnel costs were addressed next with Mr. Cox stating they were up \$4,000 for the month of February, but were still down \$75,000 year-to-date due to unfilled positions, but according to his projections, we'll be close to even by the end of the year. Mr. Cox then stated other costs are down \$278,000 for the month of February and \$629,000 year-to-date, but that these are down primarily due to the absence of the large airport grant spending we had last year, adding that the last two years are really a mirror image of each other, and that we've kept our controllable expenses to a minimum the past two years.

Mr. Cox then addressed the General Fund stating revenues were down \$4,000 for the month of February and down \$135,000 year-to-date. Mr. Cox stated the decreases were a \$48,000 decrease in sales tax collections in the first part of this year compared to the same months of last year which were pre-recession; the \$96,000 reduction in State shared revenues, noting it will be down twice that by the end of the fiscal year; and the \$64,000 decrease in asset sales due to the City's excess assets being conducted in the previous year.

Mr. Cox then continued with the General Fund stating the personnel expenditures were down \$70,000 year-to-date due to timing issues, but were basically the same as last year and other expenditures were down \$18,000 year-to-date, again stating we have minimized our expenditures for the last two years. Mr. Cox then stated the General Fund balance was up \$87,000 in February, which was very encouraging, but it was still down \$309,000 year-to-date, which means at the end of the fiscal year, we are going to still be down approximately \$150,000, which is not something to be proud of, but was still better than most other cities.

Mr. Cox then addressed the enterprise funds, stating the Gas Fund broke even for February but was still down \$27,000 year-to-date, but due to timing issues, he feels it will be slightly positive at the end of the year, noting the revenues and expenditures were both down because of the lower price of natural gas. Mr. Cox then stated the surprise performer was the Water Fund which was up \$38,000 for the month of February and up \$130,000 year-to-date. Mr. Cox stated they were in the process of analyzing the water fund, that revenues year-to-date were up \$82,000 from last year, there was more water consumption and we had the addition of the Sue Juan water district, stating we spent the money to upgrade that water system last year and reaping the benefits this year. The Wastewater Fund is up \$5,000 for the month of February and up \$18,000 year-to-date which really meant it was at break-even. Mr. Cox then stated he wanted to emphasize that with all the enterprise funds we weren't deferring capital expenditures, but we're being extremely careful about making sure we only expend the capital that is absolutely necessary for the integrity of the systems.

Mr. Cox then gave a summary, stating that our cash balances increased by over \$200,000 and that City sales tax collections were up 4% comparing last year to this year and that it's the second month we've seen that, noting there may be a trend seen when looking at the sales tax charts in the presentation. Mr. Cox then said State sales tax revenues continue to fall and were down 4%, but that City retail sales tax revenues for December are the highest retail sales tax we've had on record. Mr. Cox stated he feels this may be an

aberration, but believes the bottom line cause was the “Live in Benson? Shop in Benson!” campaign from the Benson/San Pedro Valley Chamber of Commerce, adding that Chamber Director Bob Mucci should be commended for his efforts in this area.

Mr. Cox then said the enterprise funds year-to-date were the same as last year, which was very stable and was good to see and that the local trend was really very encouraging, noting that locally, it appears we’re at least holding our own versus last year and without any major problems, we’ll survive.

Mr. Cox then stated we are working on the new budget for FY2010-2011 and that it’s going to be very similar to our current budget, stating the only negative is that we’re expecting approximately \$250,000 less revenue from the state and we’re going to have to adjust for that decrease.

Mr. Cox then continued addressing City Tax Collections, including Sales Tax, Construction Tax and Bed Tax collections stating in City sales tax collections, the chart shows where we passed and are now ahead of what was collected last year at this time. Mr. Cox then stated the General Fund sales tax collections chart shows the highest month on record for retail sales, which will drop, but that it’s enjoyable at the moment. He then addressed construction sales tax collections stating they are as one would expect which is unpredictable, but that we’re hanging in with what was collected in the prior year. Mr. Cox then stated bed taxes were equal to last year in the most current months which was an encouraging sign and that food services, restaurants and bars, are another shining star in that they are consistently higher than they’ve been over the past 2 years, noting it was not by much, but that they are showing real strength.

Mr. Cox then compared the City sales tax collections to state tax collections, and said the City has bottomed out and is at least even, if not ahead of the prior year, whereas, the State on the other hand is consistently below and is staying below where they were last year. Mr. Cox noted it is not by huge differences, but when the City is up 4% and the State is down 4%, it translates into a lot of dollars across the State.

Mayor Fenn then asked Mr. Cox about the possible debt consolidation that Mr. Cox had mentioned in his department report with Mr. Cox stating he is in the investigation process. Mr. Cox stated he had met with bankers and legal representatives, outlined different scenarios for potential bonding and that they are in the process of putting numbers together and hopes he will be able to report to Council at the next Council meeting. Mayor Fenn thanked Mr. Cox for the update and stated it is an encouraging report compared to the last few updates they had received.

DEPARTMENT REPORTS: None

ADJOURNMENT:

Councilmember Sacco moved to adjourn at 7:39 p.m. Seconded by Councilmember Lodzinski. Motion passed 6-0.

ATTEST:

Mark M. Fenn, Mayor

Vicki L. Vivian, CMC, City Clerk