

**THE REGULAR MEETING
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD OCTOBER 13, 2008 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,
COUNCILMEMBERS BONCQUET, LAMBERT, LODZINSKI, McGOFFIN, and SACCO
ABSENT WAS: VICE MAYOR KING**

INVOCATION:

Mayor Fenn introduced Bishop Ashby who gave the invocation.

**EMPLOYEE
RECOGNITION:**

Mayor Fenn recognized Bob Nilson for five years of service completed with the City.

Mayor Fenn then recognized Lori Fink for five years of service completed with the City.

PROCLAMATION:

Mayor Fenn asked Councilmember Lambert to read the proclamation of the Mayor and Council declaring October 12 – 18, 2008 as “Arizona Cities and Towns Week”.

PROCLAMATION:

Mayor Fenn asked Max and Ina Jones to come forward and then read the proclamation of the Mayor and Council recognizing Jones – Wilson’s fifty year anniversary in the City of Benson, Arizona. Mayor Fenn then presented the proclamation to Mr. and Mrs. Jones.

CALL TO THE PUBLIC:

Kimberly Lockhart, Benson/San Pedro Valley Chamber of Commerce, addressed Council stating the recently held Butterfield Overland Stage Days celebration was a successful three day event. Ms. Lockhart stated the success was due in large part to the efforts and contributions made by the City of Benson and its incredible staff. Ms. Lockhart stated she was impressed and relieved to work with a customer service minded City for this event, stating she would like to give heartfelt thank to Jose Ronquillo, Chuck Trujillo, Diana Faulkner and the rest of the parks staff for all of their dedication and assistance. Ms. Lockhart then also thanked Bob Nilson, Corky Brandt, PJ Moncada and Officer Graf for their assistance also. Ms. Lockhart stated working with the City for this event felt like she was working with community-minded people instead of a bureaucracy, commending the City Council and the Interim City Manager for their leadership to allow the staff the freedom to do their jobs and to do them well.

Paul Lotsof addressed Council stating in a previous Call to the Public, Patricia Rogers had stated she was satisfied with the way the San Pedro Valley News-Sun covered the recently recall election campaign. Mr. Lotsof then stated he would like to present the other point of view. Mr. Lotsof stated so broad is the freedom of press that a newspaper can print just about anything they want about public figures, including Councilmembers. Mr. Lotsof then stated as far as legal

rights go, the sky is the limit, however there is another concept beside legal rights called ethics and that although a newspaper can print just about anything about a member of the City Council, a reputable publication restrains itself and tries to stick to the truth. Mr. Lots of then stated the coverage in the newspaper, it was clear that the newspaper was on a relentless crusade to destroy the political careers of Kathy Suagee and Dianne Tipton. Mr. Lots of then stated for the democratic process to work, we need a well informed public and that was not the case prior to the September 2, 2008 election.

Bobbie Kuhn, International Realty, addressed Council regarding the Butterfield Plaza, stating the repairs that need to be made are nowhere near being completed. Ms. Kuhn then stated in her office, there are flooring cracks, cracks on the interior sheet rock walls indicating the building is continuing to move. Ms. Kuhn then stated her windows were no longer sitting in their frame and there is a separation between her suite and the north wall creating a 2 inch gap, the doors no longer fit the frames, the exterior has cracks, roof leaks and many other problems. Ms. Kuhn then stated no money had been previously spent on repairs and the problems are a result of neglect on the part of the property owner and are not the fault of the City. Ms. Kuhn stated any complaints made to the owner get no response and she would be happy to share all the documentation regarding these matters with the City. Ms. Kuhn stated she had been informed the back of the building needed to be raised over 11 inches and she will have to vacate her office when this is done. Ms. Kuhn then stated the City was not negligent in condemning this property, that the owner was negligent in his repairs and the oversight of the property. Ms. Kuhn then stated the tenants want is a resolution to this problem. Ms. Kuhn then stated she had initiated conversations with Mark Fenn, Mr. Klink and Mr. Hudson about relocating her business and wanted it clear that she had initiated those conversations.

Lori McGoffin addressed Council thanking Kimberly Lockhart and Terri Jo Neff of the Benson/San Pedro Valley Chamber of Commerce for their efforts in the Butterfield Overland Stage Days celebration saying they did a great job and it was very successful.

John Whiteside addressed Council proposing an extension of the term of Mr. Nichols' appointment to Interim City Manager for a period of 6 months, stating there was a definite lowering of the stress level among the staff and the dealings were much more enjoyable in the lower stress atmosphere. Mr. Whiteside stated he was beginning to see open government and likes Mr. Nichols' management philosophy and that Mr. Nichols will be required to carry 2 heavy responsibilities. Mr. Whiteside then stated he believed Mr. Nichols could do it, but that it is a heavy load to carry and Mr. Nichols should be well rewarded.

Leon Vassar declined to speak at this time.

CONSENT AGENDA:

- 1a. Approval of Minutes of the September 16, 2008 Special Meeting
- 1b. Approval of Minutes of the September 22, 2008 Regular Meeting
- 1c. Appointment of Phyllis Little to the Benson Historic Preservation Commission
- 1d. Removal of former Councilmember, Dianne Tipton, from the Benson Economic Development Subcommittee
- 1e. Appointment of Bob Nilson to the Benson Economic Development Subcommittee
- 1f. Appointment of Patricia Rogers to the Benson Economic Development Subcommittee
- 1g. Resignation of Jacquilyn Fenn from the Benson Arts Commission
- 1h. Ratification of Benson Industrial Development Authority (IDA) Term Expiration Dates
- 1i. Processed Invoices for September 13, 2008 through October 3, 2008

Councilmember Sacco moved to approve the Consent Agenda. Seconded by Councilmember Lambert. Motion passed 6-0.

NEW BUSINESS:

1. **Presentation and request for assistance from the San Pedro Terrace Apartments and Family Housing Resources regarding the City's portion of the curb appeal as well as implementing a program that will assist San Pedro Terrace Apartments in maintaining a crime-free community**

Mayor Fenn introduced Ms. Kelly Coons, the Community Manager for San Pedro Terrace Apartments. Ms. Coons addressed Council stating improvements have been made to the property by updating their islands, landscaping and that with strict credit and criminal background check, they have been able to reduce the number of police calls to the property from an average of approximately 20 calls a month to 5 calls as of September 19, 2008 which were not criminally related. Ms. Coons stated she would like to acknowledge the Benson Police Department for their wonderful service. Ms. Coons then stated she is asking the City to implement a program that would notify the management of any criminal calls to the property and to request assistance in verifying what is City property and what is not so that issue of overgrown weeds and trees that affect traffic visibility can be addressed. Interim City Manager Glenn Nichols then addressed Council stating he would look into a process that would give apartment management the information regarding calls to the property on a weekly basis. Brad Hamilton, Public Works Director then addressed Council stating the assessor's maps and City measurements show the property in question is private property, is not maintained by the City and is the responsibility of the property owner. Ms. Coons stated she would contact the property owner and see if they had a record or a map concurring with the City's assessment. Mr. Hamilton stated the City was trying to obtain a copy of the original development plan to see if an Alta Survey was done that would verify the assessment.

2. **Discussion and possible action authorizing the renewal of an Independent Contractor's Agreement with Engineering and Environmental Consultants, Inc. (EEC) for Consulting Engineering Services on as As-Needed Basis**

Brad Hamilton, Public Works Director addressed Council concerning this item and stated items 2 through 5 are contract renewals, that were originally approved after the successful request for qualifications and negotiations. Mr. Hamilton stated these contracts can be renewed each year for a maximum time of five years before it will be required to process new request for qualifications. Mr. Hamilton stated he is happy with the firms and asked Council to renew the contracts for one year. Mr. Hamilton then stated the contract with WILLDAN (new business item #6) was a new contract and that he looked into WILLDAN because it is a unique firm that can provide public works management services. Mr. Hamilton stated WILLDAN had heavily recruited former public works directors as consultants and have experienced many aspects of development including community facilities districts and have been an excellent source for resources. Councilmember McGoffin then moved to approve the renewal of the Independent Contractor's Agreement with Engineering and Environmental Consultants, Inc. (EEC) for Consulting Engineering Services on as As-Needed Basis. Seconded by Councilmember Bonquet. Motion passed 6-0.

3. **Discussion and possible action authorizing the renewal of an Independent Contractor's Agreement with Psomas Engineering for Consulting Engineering Services on an As-Needed Basis**

Councilmember Lambert moved to approve the renewal of an Independent Contractor's Agreement with Psomas Engineering for Consulting Engineering Services on as As-Needed Basis. Seconded by Councilmember McGoffin. Motion passed 6-0.

4. **Discussion and possible action authorizing the renewal of an Independent Contractor's Agreement with CH2M HILL, Inc. for Consulting Engineering Services on an As-Needed Basis**

Councilmember Boncquet moved to approve the renewal of an Independent Contractor's Agreement with CH2M HILL, Inc. for Consulting Engineering Services on an As-Needed Basis. Seconded by Councilmember Sacco. Motion passed 6-0.

5. **Discussion and possible action authorizing the renewal of an Independent Contractor's Agreement with Stantec Consulting, Inc. for Consulting Engineering Services on an As-Needed Basis**

Councilmember Lodzinski stated his son worked for Stantec Consulting, Inc. and removed himself from the chambers. Councilmember McGoffin moved to approve the renewal of an Independent Contractor's Agreement with Stantec Consulting, Inc. for Consulting Engineering Services on an As-Needed Basis. Seconded by Councilmember Sacco. Motion passed 5-0 with Councilmember Lodzinski absent.

6. **Discussion and possible action authorizing the approval and execution of an Independent Contractor's Agreement with WILLDAN Engineering for Consulting Engineering Services on an As-Needed Basis**

Councilmember McGoffin moved to approve the Independent Contractor's Agreement with WILLDAN Engineering for Consulting Engineering Services on an As-Needed Basis. Seconded by Councilmember Lodzinski. Motion passed 6-0.

7. **Discussion and possible action authorizing the approval and execution of a Cooperative Purchase Agreement with Mohave Educational Services Cooperative, Inc.**

Glenn Nichols, Interim City Manager addressed Council stating this contract would provide the City with another source for purchasing of materials or services. Councilmember Lambert stated he had discussed this contract with staff and had found a vendor discounted their services to match the purchase agreement, saving the City money. Councilmember Lambert then moved to approve the Cooperative Purchase Agreement with Mohave Educational Service Cooperative, Inc. Seconded by Councilmember Sacco. Motion passed 6-0.

8. **Resolution 58-2008 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the Acceptance of Utility Easement for Property Rights conveyed to the City by La Habra 2004 Limited Partnership, an Arizona Limited Partnership ("La Habra")**

Brad Hamilton, Public Works Director addressed Council stating this item would grant the City the easements to maintain the gas lines that supply the La Habra project. Councilmember Boncquet moved to approve Resolution 58-2008, approving and authorizing the acceptance of the utility easement for property rights conveyed to the City by La Habra. Seconded by Councilmember McGoffin. Motion passed 6-0.

9. **Discussion and possible action concerning the position of Interim City Manager, including but not limited to, the term of the position and compensation for appointment to the position**

Mayor Fenn stated the City had not advertised for the position of City Manager and that there had been considerable interest from the community and from employees of the City for Council to consider having Glenn Nichols, the Interim City Manager remain in the position for a specified time rather than actively recruit a new City Manager at this time. Mayor Fenn then opened the

item up for discussion. Councilmember McGoffin asked the City Attorney if she had a conflict of interest, with City Attorney Christopher Wencker stating the interest she would have in Mr. Nichols continuing as the Interim City Manager would probably be best described as a remote interest and though it would be up to Councilmember McGoffin to decide to remove herself from discussion or action, a remote interest does not require it. Councilmember Sacco then suggested offering Mr. Nichols a six-month contract as the City Manager and at the end of that period, review his performance and take action at that time. Councilmember Lodzinski stated he had reviewed salary ranges for City Managers in other entities in the state and that Council should consider a salary range from \$95,000 – 100,000 for Mr. Nichols while he was in the position. Councilmember Lambert then asked Mr. Nichols how his time was allotted for both the position of Interim City Manager and Police Chief, with Mr. Nichols stating about 70% of his time was spent in the capacity of Interim City Manager, but was always on-call for both positions, when needed. Mayor Fenn then asked Mr. Nichols about the police department and the effect of Mr. Nichols extra duties. Mr. Nichols stated the police department was being handled in excellent manner in the daily operations and communications, with Mr. Nichols still overseeing the issues he needs to. Mr. Nichols stated the staff, supervisors and officers are doing an excellent job. Councilmember Lambert stated there are many things the Council needs to address and that it would benefit the City to take the time to address those other items, such as the upcoming open City Attorney position, and to leave Mr. Nichols as the Interim City Manager, allowing Council the time to not be rushed into a City Manager's contract prematurely. Mayor Fenn stated he would be in favor of continuing with Mr. Nichols as the Interim City Manager as long as each position was covered adequately, and stated the question remained as to actively recruit for the position of the City Manager. Councilmember Sacco suggested not actively recruiting, with Councilmember Lodzinski stating it may be better to wait until after the upcoming City Council election. Mayor Fenn then stated if Council were to leave Mr. Nichols as the Interim City Manager, Mr. Nichols should be compensated for his extra responsibilities and suggested it be retroactive to the date he assumed the position. Councilmember Lambert then stated utilizing the time spent in each position and the current salaries for those positions would result in an annual salary of \$113,817 and suggested approximately \$105,000 as the salary for the Interim City Manager. Mayor Fenn then stated the previous City Manager had a vehicle allowance and with Mr. Nichols continuing to utilize his City vehicle, no vehicle allowance would be needed. Councilmember McGoffin stated she agreed with the proposed salary of \$105,000 and with no vehicle allowance and the two salaries being paid for each position of City Manager and Police Chief, the City was saving money while getting an excellent Interim City Manager. Councilmember McGoffin then moved to give an annual salary of \$105,000 to the Interim City Manager retroactive to the date he assumed the position. Councilmember McGoffin then amended her motion to appoint Glenn Nichols as Interim City Manager for a term of six months from October 13, 2008, at which time Council will revisit the issue. Seconded by Councilmember Sacco. Motion passed 6-0.

EXECUTIVE SESSION: Pursuant to A.R.S. section 38-431.03 (A)(3) & (4) for legal advice from the City's Attorney concerning a notice of claim filed by Silver Two Investments, LLC, and Butterfield Plaza Benson, LLC dba Butterfield Plaza, alleging tortious interference with contractual relations and gross negligence on the part of the City

Councilmember McGoffin moved to enter into executive session with the Council, Interim City Manager, the City Attorney and the City Clerk at 8:17 p.m. Seconded by Councilmember Lodzinski. Motion passed 6-0.

Council reconvened at 8:35 p.m.

10. Discussion and possible action to direct the City's staff with respect to the above notice of claim

Councilmember McGoffin moved to direct the City Attorney to do nothing at this time. Seconded by Councilmember Sacco. Motion passed 6-0.

CITY MANAGER REPORT:

Interim City Manager Glenn Nichols addressed Council with upcoming meetings:

October 14, 2008 – Arts Commission Meeting, 9:00 a.m., City Hall
– Library Advisory Board Meeting, 4:00 p.m., City Library

October 18, 2008 – Historic Preservation Commission Meeting, 9:00 a.m., City Hall

October 27, 2008 – City Council Meeting – 7:00 p.m., City Hall

Mr. Nichols then stated he would like to remind everyone October 25, 2008, the Benson Arts Commission would be holding the “Gathering of Artists & Friends” at the Gallery of Dreams in St. David, from 2:00 – 6:00 p.m. Mr. Nichols also stated the City has a Request for Proposal (RFP) out for the position of City Attorney that will close on November 7, 2008 at 3:00 p.m.

COUNCIL DIRECTIVES:

None.

DEPARTMENT REPORTS:

None.

ADJOURNMENT:

Councilmember Lodzinski moved to adjourn at 8:39 p.m. Seconded by Councilmember Sacco. Motion passed 6-0.

Mark M. Fenn, Mayor

ATTEST:

Vicki L. Vivian, City Clerk